

Congress of the United States  
Washington, DC 20515

September 2, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Dear Administrator McCarthy:

The House Committee on Oversight and Government Reform (OGR) and the Senate Environment and Public Works Committee (EPW) are engaged in a joint investigation into allegations that the EPA and the Natural Resources Defense Council (NRDC) are colluding to craft regulatory policy and shape agency action outside of the normal regulatory process. According to recent news reports, it appears that NRDC played an outsized role in drafting EPA's proposed regulations for carbon emissions from existing power plants. Furthermore, documents obtained by OGR confirm that the NRDC significantly shaped EPA's decision to severely limit the operation of the proposed Pebble Mine in Bristol Bay, Alaska under section 404(c) of the Clean Water Act. It appears that the NRDC's unprecedented access to high-level EPA officials allowed it to influence EPA policy decisions and achieve its own private agenda. Such collusive activities provide the NRDC, and their financial backers, with an inappropriate opportunity to wield the broad powers of the executive branch. Such unprecedented access also violates the due process principles found in the Administrative Procedure Act (APA). Accordingly, these practices must cease immediately.

On July 6, 2014, *The New York Times* reported on the NRDC's pivotal role in developing EPA's Clean Power Plan Proposed Rule, which represents new regulations that control carbon emissions from existing power plants.<sup>1</sup> The article focused on the role of three key senior NRDC officials in creating the framework for the proposed rule - David Doniger, Daniel Lashof, and David Hawkins.<sup>2</sup> Doniger and Hawkins both spent a considerable portion of their careers at the EPA, and Lashof is the COO of NextGen Climate America, which is affiliated with Tom Steyer's hyper-partisan NextGen Action.<sup>3</sup> Specifically, *The New York Times* stated:

<sup>1</sup> Coral Davenport, *Taking Oil Industry Cue, Environmentalists Drew Emissions Blueprint*, THE N.Y. TIMES, July 6, 2014, available at [http://www.nytimes.com/2014/07/07/us/how-environmentalists-drew-blueprint-for-obama-emissions-rule.html?\\_r=0](http://www.nytimes.com/2014/07/07/us/how-environmentalists-drew-blueprint-for-obama-emissions-rule.html?_r=0) (last visited August 21, 2014); Carbon Pollution Emissions Guidelines for Existing Stationary Sources: Electric Utility Generating Units, 79 Fed. Reg. 34,830 (June 18, 2014) (to be codified at 40 CFR Part 60).

<sup>2</sup> Coral Davenport, *Taking Oil Industry Cue, Environmentalists Drew Emissions Blueprint*, THE N.Y. TIMES, July 6, 2014, available at [http://www.nytimes.com/2014/07/07/us/how-environmentalists-drew-blueprint-for-obama-emissions-rule.html?\\_r=0](http://www.nytimes.com/2014/07/07/us/how-environmentalists-drew-blueprint-for-obama-emissions-rule.html?_r=0) (last visited Aug. 21, 2014).

<sup>3</sup> About NRDC, Meet NRDC's Experts, available at <http://www.nrdc.org/about/staff/david-doniger> (last visited Aug. 25, 2014); Press Release, Natural Resources Defense Council, *Top Environmental Lawyer David Hawkins*

“On June 2, President Obama proposed a new Environmental Protection Agency rule to curb power plant emissions that used as its blueprint the work of the three men and their team.”<sup>4</sup>

The article further noted that the rule “was a remarkable victory for the Natural Resources Defense Council....”<sup>5</sup> The *Times* was not the only source to emphasize the NRDC’s heavy influence in creating the proposed rule. According to an energy expert at Resources for the Future, “The N.R.D.C. proposal has its fingerprints throughout this, for sure.”<sup>6</sup>

The NRDC’s effort to influence EPA policy is heavily financed by a select group of billionaires and millionaires, including unknown offshore sources, according to a recent report released by EPW minority staff.<sup>7</sup> According to the report, the NRDC has a reputation of placing high level staff in the Obama Administration who then act as agents of their former employer to achieve the NRDC’s policy objectives within the Administration.<sup>8</sup> Moreover, NRDC’s strong ties to the Administration provide the NRDC and its funders with enhanced access to key decision-makers.<sup>9</sup>

In light of these facts, we are alarmed that EPA pushed a rule that was drafted behind closed doors by powerful Washington lawyers and lobbyists at the NRDC. Moreover, the fact that an ideological and partisan group drafted a rule that places a tremendous cost on everyday Americans through increased electricity prices is harmful and outrageous.

It is even more troubling that NRDC’s influence over EPA does not stop there. Rather, it appears that this powerful Washington lobby also influenced other areas of EPA’s policy decision-making processes. According to documents obtained by OGR, the NRDC exerted its influence on EPA’s July 17, 2014, decision to issue a *de facto* pre-emptive veto of the proposed Pebble Mine in Bristol Bay, Alaska.<sup>10</sup> The NRDC has publically supported a pre-emptive veto of the proposed Pebble Mine.<sup>11</sup> In June 2010, an NRDC attorney requested a meeting with former Acting Assistant Administrator for Water Nancy Stoner, who formerly worked as the Co-

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Earns EPA Lifetime Achievement Award, available at <http://www.nrdc.org/media/pressreleases/060405a.asp> (last visited Aug. 25, 2014).

<sup>4</sup> Coral Davenport, *Taking Oil Industry Cue, Environmentalists Drew Emissions Blueprint*, THE N.Y. TIMES, July 6, 2014, available at [http://www.nytimes.com/2014/07/07/us/how-environmentalists-drew-blueprint-for-obama-emissions-rule.html?\\_r=0](http://www.nytimes.com/2014/07/07/us/how-environmentalists-drew-blueprint-for-obama-emissions-rule.html?_r=0) (last visited August 21, 2014).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See U.S. Senate Committee on Environment and Public Works, *The Chain of Environmental Command: How a Club of Billionaires and Their Foundations Control the Environmental Movement and Obama’s EPA*, July 30, 2014.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at p. 25-9.

<sup>10</sup> Proposed Determination of the U.S. Environmental Protection Agency Region 10 Pursuant to Section 404(c) of the Clean Water Act Pebble Deposit Area, Southwest Alaska, U.S. EPA Region 10, July 17, 2014.

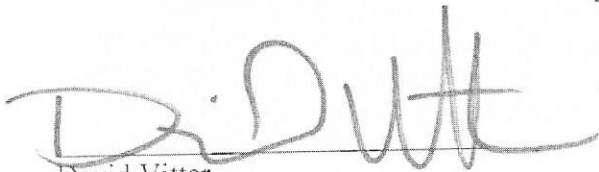
<sup>11</sup> Taryn Kiekow, Check out NRDC’s Stop Pebble Mine ad in the Washington Post, available at [http://switchboard.nrdc.org/blogs/tkiekow/check\\_out\\_nrdcs\\_stop\\_pebble\\_mi.html](http://switchboard.nrdc.org/blogs/tkiekow/check_out_nrdcs_stop_pebble_mi.html) (last visited August 21, 2014).



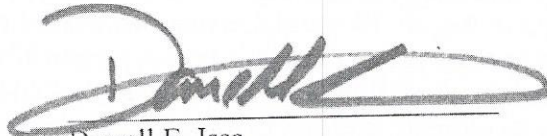
"any time" under House Rule X. The U.S. Senate Committee on Environment and Public Works focuses on federal energy and environmental policy and our nation's transportation and infrastructure systems.

If you have any questions about this request, please contact Joseph Brazauskas with the House of Representatives Committee on Oversight and Government Reform at (202) 225-5074 or Kristina Moore of the Senate Environment and Public Works Committee at (202) 224-6176. Thank you for your attention to this important matter.

Sincerely,



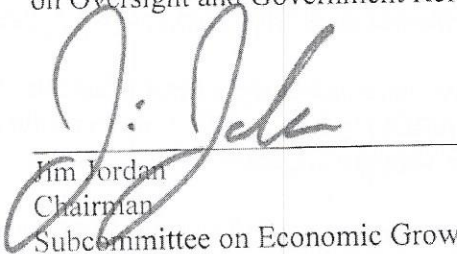
David Vitter  
Ranking Member  
Senate Committee on  
Environment and Public Works



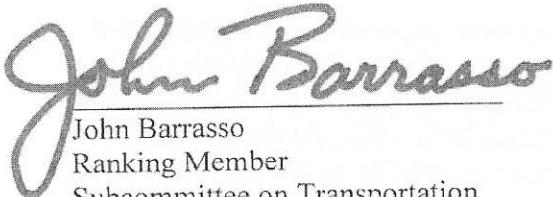
Darrell E. Issa  
Chairman  
House of Representatives Committee  
on Oversight and Government Reform



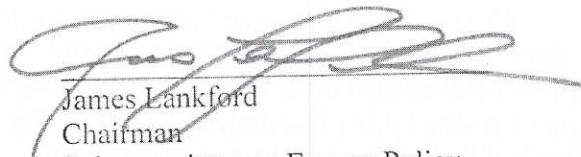
James M. Inhofe  
Ranking Member  
Subcommittee on Oversight



Jim Jordan  
Chairman  
Subcommittee on Economic Growth,  
Job Creation and Regulatory Affairs



John Barrasso  
Ranking Member  
Subcommittee on Transportation  
And Infrastructure



James Lankford  
Chairman  
Subcommittee on Energy Policy,  
Health Care and Entitlements

cc: The Honorable Barbara Boxer, Chairman, Committee on Environment and Public Works

The Honorable Elijah E. Cummings, Ranking Member, Committee on Oversight  
and Government Reform

The Honorable Cory A. Booker, Chairman, Subcommittee on Oversight

Director of the NRDC's Water Program.<sup>12</sup> Referring to her pledge to not participate in any particular matter that is directly and substantially related to her former employer,<sup>13</sup> Assistant Administrator Stoner stated, "I am not supposed to set up meetings with NRDC staff." Even so, she facilitated the meeting by forwarding the NRDC's request and circumvented the ethics restriction barring her participation so long as "there are enough others in attendance."<sup>14</sup>

In another series of emails obtained by OGR, it appears that the NRDC met with a number of EPA employees regarding a pre-emptive veto of the proposed Pebble Mine on August 30, 2010.<sup>15</sup> This meeting included key EPA decision-makers Bob Sussman, Senior Policy Counsel to the Administrator, Heidi Karp and Steven Neugeboren from the Office of the General Counsel, and Greg Peck, Chief of Staff in the Office of Water. After the meeting, Sussman remarked to Region 10 Administrator Dennis McLerran in an e-mail that a pre-emptive veto of the Pebble Mine under Clean Water Act section 404(c) was an "intriguing" idea.<sup>16</sup> Accordingly, it appears that the NRDC's access to senior leadership at EPA was effective in directing EPA towards its ultimate decision to preemptively curtail the ability of the proposed Pebble Mine to move forward in permitting.

In order for the Committees to understand the facts, circumstances, and the extent of the NRDC's influence over EPA's recent policy decisions, please provide the following:

1. All documents and communications referring or relating to the work of the EPA and the NRDC in creating the proposed rule for carbon emissions from existing power plants from January 20, 2009, to the present.
2. All documents and communications between EPA and NRDC referring or relating to the proposed Pebble Mine in Bristol Bay, Alaska from January 20, 2009, to the present.

We ask that you provide the requested information no later than 5:00 p.m. on September 16, 2014. When producing documents to the Committees, please deliver production sets to the Majority Staff of the House Oversight and Government Reform Committee in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. When producing documents to the Environment and Public Works Committee, please deliver production sets to 415 Hart Senate Office Building. The Committees prefer, if possible, to receive all documents in electronic format.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at

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<sup>12</sup> E-mail from Joel Reynolds, Senior Attorney, Natural Resources Defense Council, to Nancy Stoner, Acting Assistant Administrator for Water, U.S. EPA (June 14, 2010, 6:47 p.m. EST) (on file with the Committee).

<sup>13</sup> Nancy Stoner Ethics Pledge, Signed Feb. 2, 2010 (on file with the Committee).

<sup>14</sup> E-mail from Joel Reynolds, Senior Attorney, Natural Resources Defense Council, to Nancy Stoner, Acting Assistant Administrator for Water, U.S. EPA (June 14, 2010, 6:47 p.m. EST) (on file with the Committee).

<sup>15</sup> Email from Bob Sussman to Dennis McLerran, Peter Silva, Nancy Stoner (Aug. 30, 2010, 6:22 p.m. ESD) (on file with the Committee).

<sup>16</sup> *Id.*



The Honorable Gina McCarthy  
September 2, 2014  
Page 5

The Honorable Matt Cartwright, Ranking Member, Subcommittee on Economic Growth  
Job Creation and Regulatory Affairs

The Honorable Thomas R. Carper, Chairman, Subcommittee on Transportation  
and Infrastructure

The Honorable Jackie Speier, Ranking Member, Subcommittee on Energy Policy,  
Health Care and Entitlements



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV 21 2014

OFFICE OF CONGRESSIONAL  
AND INTERGOVERNMENTAL RELATIONS

The Honorable David Vitter  
Ranking Member  
Committee on Environment and Public Works  
United States Senate  
Washington, D.C. 20510

Dear Senator Vitter:

I am writing today to provide the U.S. Environmental Protection Agency's (EPA) initial response to your letter of September 2, 2014, in which you request a number of documents concerning the EPA's communications with the Natural Resources Defense Council (NRDC).

As an initial matter, and as discussed with your staff, the EPA vigorously disputes the underlying premise of your September 2 letter that the EPA and the NRDC are colluding to craft regulatory policy and shape agency action outside of the normal regulatory process.

The EPA is strongly committed to broad public outreach and engagement when developing rules and regulations that protect human health and the environment in which we live, learn and work. Nowhere has that commitment to engage been more fully realized than in our development of the Clean Power Plan, announced in June. The agency diligently consulted with states, power companies, local communities, environmental groups, associations, labor groups, tribes and many others. By the time the proposal was issued, we had met with over 300 stakeholders to better understand their ideas and interests. Additionally, after the proposal, we continue to regularly meet with stakeholders throughout the country.

The EPA seeks and receives valuable input from thousands of individuals, organizations, and stakeholder groups on any number of its activities. To confuse or mislabel these public meetings and stakeholder dialogues as "collusion" deeply misunderstands the agency's efforts to communicate openly and transparently with the American public. Such open and transparent communication enhances the quality of agency rulemaking.

Following lengthy discussions with committee staff, we now understand the refined document request to be:

- 1(a). from 5 specified EPA custodians, all the documents and communications from January 1, 2010 to June 2, 2014, between the EPA and NRDC referring or relating to the regulation of carbon dioxide emissions from existing power plants;



1(b). from 23 specified EPA custodians, all documents and communications from January 1, 2010 to June 2, 2014, internal to the EPA that refer or relate to NRDC suggestions or proposals concerning the proposed regulation of carbon dioxide emissions from existing power plants; and,

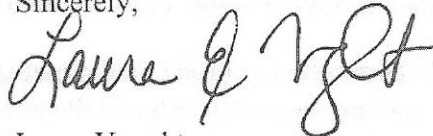
2. from 38 specified EPA custodians, all documents and communications between the EPA and NRDC referring or relating to the proposed Pebble Mine in Bristol Bay, Alaska from January 20, 2009 to the present.

We are enclosing with this letter today an initial set of responsive documents. These documents are responsive, not only to request #2, but also to Chairman Issa's March 20, 2014, subpoena *duces tecum* for documents "referring or relating to any permit review (including but not limited to any action under section 404(c) of the Clean Water Act) in and/or for Bristol Bay, Alaska." Consistent with an agreement with your staff and the staff of the House Oversight and Government Reform Committee, these documents have been pulled from within our existing database of documents collected in response to that subpoena.

We will continue to work with your staff on the process for and timing of further productions of responsive documents on a rolling basis.

As always, we are prepared to discuss our ongoing efforts with your staff upon their request. Please feel free to contact me if you have any questions, or your staff may contact Tom Dickerson in my office at [dickerson.tom@epa.gov](mailto:dickerson.tom@epa.gov) or (202) 564-3638.

Sincerely,



Laura Vaught  
Associate Administrator

Enclosures

cc: The Honorable Barbara Boxer  
Chairman



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 21 2014

OFFICE OF CONGRESSIONAL  
AND INTERGOVERNMENTAL RELATIONS

The Honorable Darrell Issa  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing today to provide the U.S. Environmental Protection Agency's (EPA) initial response to your letter of September 2, 2014, in which you request a number of documents concerning the EPA's communications with the Natural Resources Defense Council (NRDC).

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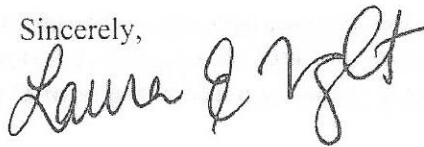
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Sincerely,



Laura Vaught  
Associate Administrator

Enclosures

cc: The Honorable Elijah E. Cummings  
Ranking Member



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 21 2014

OFFICE OF CONGRESSIONAL  
AND INTERGOVERNMENTAL RELATIONS

The Honorable James M. Inhofe  
Ranking Member  
Subcommittee on Oversight  
Committee on Environment and Public Works  
United States Senate  
Washington, D.C. 20510

Dear Senator Inhofe:

I am writing today to provide the U.S. Environmental Protection Agency's (EPA) initial response to your letter of September 2, 2014, in which you request a number of documents concerning the EPA's communications with the Natural Resources Defense Council (NRDC).

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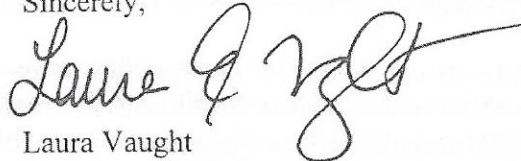
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As always, we are prepared to discuss our ongoing efforts with your staff upon their request. Please feel free to contact me if you have any questions, or your staff may contact Tom Dickerson in my office at [dickerson.tom@epa.gov](mailto:dickerson.tom@epa.gov) or (202) 564-3638.

Sincerely,



Laura Vaught  
Associate Administrator

Enclosures

cc: The Honorable Cory A. Booker  
Chairman



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 15 2014

OFFICE OF CONGRESSIONAL  
AND INTERGOVERNMENTAL RELATIONS

The Honorable Jim Jordan  
Chairman, Subcommittee on Economic Growth,  
Job Creation and Regulatory Affairs  
Committee on Oversight and Government Reform  
U. S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing today to supplement the U.S. Environmental Protection Agency's November 21, 2014, response to your letter of September 2, 2014, in which you request a number of documents concerning the EPA's communications with the Natural Resources Defense Council (NRDC).

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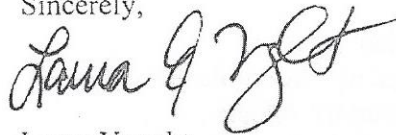
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We continue to review the documents we have collected and will provide additional productions of responsive documents on a rolling basis.

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Sincerely,

A handwritten signature in black ink, appearing to read "Laura G. Vaught". The signature is fluid and cursive, with the first name "Laura" being more prominent.

Laura Vaught  
Associate Administrator

Enclosures

cc: The Honorable Matt Cartwright  
Ranking Member



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 15 2014

OFFICE OF CONGRESSIONAL  
AND INTERGOVERNMENTAL RELATIONS

The Honorable John Barrasso  
Ranking Member  
Subcommittee on Transportation and Infrastructure  
Committee on Environment and Public Works  
United States Senate  
Washington, D.C. 20510

Dear Senator Barrasso:

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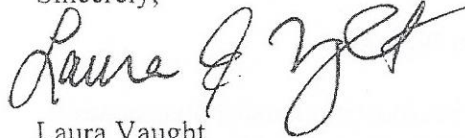
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Laura Vaught  
Associate Administrator

Enclosures

cc: The Honorable Thomas R. Carper  
Chairman



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 15 2014

OFFICE OF CONGRESSIONAL  
AND INTERGOVERNMENTAL RELATIONS

The Honorable James Lankford  
Chairman  
Subcommittee on Energy Policy, Health Care and Entitlements  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

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2. From 38 specified EPA custodians, all documents and communications between the EPA and NRDC referring or relating to the proposed Pebble Mine in Bristol Bay, Alaska from January 20, 2009, to the present.

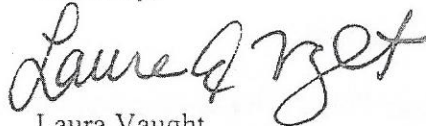
Enclosed with this letter is a set of documents responsive to your request. You will notice that a number of the documents contain redactions of non-responsive or non-substantive material, such as conference codes, personal cell phone numbers and email addresses, or other personal privacy information. We have done our best to redact this information in a manner that should not in any way obscure the identity of any individuals involved in the relevant communications.



We continue to review the documents we have collected and will provide additional productions of responsive documents on a rolling basis.

As always, we are prepared to discuss our ongoing efforts with your staff upon their request. Please feel free to contact me if you have any questions, or your staff may contact Tom Dickerson in my office at [dickerson.tom@epa.gov](mailto:dickerson.tom@epa.gov) or (202) 564-3638.

Sincerely,

A handwritten signature in cursive script, appearing to read "Laura Vaught".

Laura Vaught  
Associate Administrator

Enclosures

cc: The Honorable Jackie Speier  
Ranking Member

AL-14-001-4192

MARK R. WARNER  
VIRGINIA

## United States Senate

WASHINGTON, DC 20510-4606

August 15, 2014

COMMITTEES:  
FINANCE

BANKING, HOUSING, AND  
URBAN AFFAIRS

BUDGET

INTELLIGENCE

RULES AND ADMINISTRATION

Ms. Joyce K. Frank  
Office of Congressional and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Room 3426 ARN  
Washington, DC 20460

Dear Ms. Frank,

I have recently been contacted by several of my constituents (61) concerned about EPA policies. Attached, please find a few copies of their correspondence. I would appreciate it if you could look into this matter and provide me with an appropriate response. Thank you.

Sincerely,



MARK R. WARNER  
United States Senator

MRW/lm  
Enclosures



exempt b

Contact Information

exempt b

exempt b

Incoming Message:

Date: 7/21/2014

I, the Undersigned, oppose giving the EPA the power to seize property and garnish wages to satisfy its fines and punishments without going through the courts.

exempt b

Contact Information

exempt b

exempt b

Incoming Message

Date: 7/28/2014

I oppose giving the EPA the power to seize property and garnish wages to satisfy its fines and punishments without going through the courts. The EPA is not an elected body and should not have the power it currently wields. It should merely make recommendations to Congress for environmental laws and enforcement policies/fines which must then be approved and passed by elected representatives. Then the EPA could enforce those laws. That would bring accountability into the fray, which is currently lacking.

exempt b

Contact Information:

exempt b

exempt b

Incoming Message:

Date: 7/21/2014

WE, the Undersigned, oppose giving the EPA the power to seize property and garnish wages to satisfy its fines and punishments without going through the courts. I am strongly against this power grab by the EPA, which is seemingly becoming more fascist, and less democratic, with each passing week. I urge you to act to deny the EPA this capability.



## Full Batch -- 64 Record(s)

#	ID	Date In	In Method	Assigned To	Status	Correspondent	Zip	Salutation	Out Method	Letter Name	Modified Date	Completed Date
1	exempt 6	07/21/2014	E-Mail	Hold Hold	Approve	exempt 6	22827		E-Mail		08/15/2014 12:31 PM	
<b>Comments: GENERAL</b> <b>E-Mail Subj: Contact Senator Warner</b>												
2	exempt 6	07/21/2014	E-Mail	Hold Hold	Approve	exempt 6	22827		E-Mail		08/15/2014 12:31 PM	
<b>Comments: GENERAL</b> <b>E-Mail Subj: Contact Senator Warner</b>												
3	exempt 6	07/21/2014	E-Mail	Hold Hold	Approved	exempt 6	23067		E-Mail		08/15/2014 12:31 PM	
<b>Comments: GENERAL</b> <b>E-Mail Subj: Contact Senator Warner</b>												
4	exempt 6	07/21/2014	E-Mail	Hold Hold	Approved	exempt 6	22517		E-Mail		08/15/2014 12:31 PM	
<b>Comments: GENERAL</b> <b>E-Mail Subj: Contact Senator Warner</b>												
5	exempt 6	07/28/2014	E-Mail	Hold Hold	Approved	exempt 6	201		E-Mail		07/31/2014 05:50 PM	
<b>E-Mail Subj: Contact Senator Warner</b>												
6	exempt 6	07/21/2014	E-Mail	Hold Hold	Approve	exempt 6	24538		E-Mail		08/15/2014 12:31 PM	
<b>Comments: GENERAL</b> <b>E-Mail Subj: Contact Senator Warner</b>												
7	exempt 6	07/21/2014	E-Mail	Hold Hold	Approved	exempt 6	20175		E-Mail		08/15/2014 12:31 PM	
<b>Comments: GENERAL</b> <b>E-Mail Subj: Contact Senator Warner</b>												
8	exempt 6	07/21/2014	E-Mail	Hold Hold	Approved	exempt 6	23692		E-Mail		08/15/2014 12:31 PM	
<b>Comments: GENERAL</b> <b>E-Mail Subj: Contact Senator Warner</b>												
9	exempt 6	07/21/2014	E-Mail	Hold Hold	Approved	exempt 6	2357		E-Mail		08/15/2014 12:31 PM	
<b>Comments: GENERAL</b> <b>E-Mail Subj: Contact Senator Warner</b>												
10	exempt 6	07/28/2014	E-Mail	Hold Hold	Approve	exempt 6	23513		E-Mail		07/31/2014 05:50 PM	
<b>E-Mail Subj: Contact Senator Warner</b>												
11	exempt 6	07/21/2014	E-Mail	Hold Hold	Approve	exempt 6	22947		E-Mail		08/15/2014 12:31 PM	
<b>Comments: GENERAL</b> <b>E-Mail Subj: Contact Senator Warner</b>												
12	exempt 6	07/21/2014	E-Mail	Hold Hold	Approved	exempt 6	2204		E-Mail		08/15/2014 12:31 PM	

Exempt 6											
Comments: GENERAL											
E-Mail Subj: Contact Senator Warner											
14	Exempt 6	07/28/2014	E-Mail	Hold	Hold	Approved	Exempt 6	2401	Exempt 6	E-Mail	07/31/2014 05:50 PM
E-Mail Subj: Contact Senator Warner											
	Exempt 6	07/21/2014	E-Mail	Hold	Hold	Approved	Exempt 6	2322	Exempt 6	E-Mail	08/15/2014 12:31 PM
Comments: GENERAL											
E-Mail Subj: Contact Senator Warner											
15	Exempt 6	08/13/2014	US Mail	Lauren Marshall		Approved	Exempt 6	2322	Exempt 6	US Mail	08/13/2014 12:42 PM
16	8736504	07/21/2014	E-Mail	Hold	Hold	Approved	Exempt 6	20110	Exempt 6	E-Mail	08/15/2014 12:31 PM
Comments: GENERAL											
E-Mail Subj: Contact Senator Warner											
17	Exempt 6	07/28/2014	E-Mail	Hold	Hold	Approved	Exempt 6	2248	Exempt 6	E-Mail	07/31/2014 05:50 PM
E-Mail Subj: Contact Senator Warner											
18	Exempt 6	07/21/2014	E-Mail	Hold	Hold	Approved	Exempt 6	2017	Exempt 6	E-Mail	08/15/2014 12:31 PM
Comments: GENERAL											
E-Mail Subj: Contact Senator Warner											
19	Exempt 6	07/21/2014	E-Mail	Hold	Hold	Approved	Exempt 6	23838	Exempt 6	E-Mail	08/15/2014 12:31 PM
Comments: GENERAL											
E-Mail Subj: Contact Senator Warner											
20	Exempt 6	07/21/2014	E-Mail	Hold	Hold	Approved	Exempt 6	23113	Exempt 6	E-Mail	08/15/2014 12:31 PM
Comments: GENERAL											
E-Mail Subj: Contact Senator Warner											
21	Exempt 6	07/21/2014	E-Mail	Hold	Hold	Approved	Exempt 6	2401	Exempt 6	E-Mail	08/15/2014 12:31 PM
Comments: GENERAL											
E-Mail Subj: Contact Senator Warner											
22	Exempt 6	07/21/2014	E-Mail	Hold	Hold	Approved	Exempt 6	23840	Exempt 6	E-Mail	08/15/2014 12:31 PM
Comments: GENERAL											
E-Mail Subj: Contact Senator Warner											
23	Exempt 6	07/21/2014	E-Mail	Hold	Hold	Approved	Exempt 6	2445	Exempt 6	E-Mail	08/15/2014 12:31 PM
Comments: GENERAL											
E-Mail Subj: Contact Senator Warner											
24	Exempt 6	07/21/2014	E-Mail	Hold	Hold	Approved	Exempt 6	23229	Exempt 6	E-Mail	08/15/2014 12:31 PM



Comments: GENERAL

E-Mail Subj: Contact Senator Warner

25	07/28/2014	E-Mail	Hold Hold	Approved	2401	E-Mail	07/31/2014 05:50 PM
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E-Mail Subj: Contact Senator Warner

26	07/21/2014	E-Mail	Hold Hold	Approved	2311	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

27	07/21/2014	E-Mail	Hold Hold	Approved	2290	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

28	07/21/2014	E-Mail	Hold Hold	Approved	23464	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

29	07/28/2014	E-Mail	Hold Hold	Approved	20148	E-Mail	07/31/2014 05:50 PM
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E-Mail Subj: Contact Senator Warner

30	07/21/2014	E-Mail	Lauren Marshall	Completed	23228	E-Mail	BUCK to Constituent v.1 (12/4/2013) Q	07/25/2014 10:24 AM	07/25/2014 10:24 AM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

Response: BUCK to Constituent v.1 (12/4/2013) Q (Ed: Librari)

31	07/21/2014	E-Mail	Hold Hold	Approved	20194	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

32	07/28/2014	E-Mail	Hold Hold	Approved	22182	E-Mail	07/31/2014 05:50 PM
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E-Mail Subj: Contact Senator Warner

33	07/21/2014	E-Mail	Hold Hold	Approved	23294	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

34	07/21/2014	E-Mail	Hold Hold	Approved	2016	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

35	6	08/13/2014	US Mail	Lauren Marshall	Approved	24382	FORMAL Mrs. McIntyre	US Mail	08/13/2014 12:42 PM
36	6	07/21/2014	E-Mail	Hold Hold	Approved	20147	E-Mail	08/15/2014 12:31 PM	

Comments: GENERAL



E-Mail Subj: Contact Senator Warner

37	EXEMPT	08/11/2014	E-Mail	Lauren Marshall	Approved	2014	EXEMPT	E-Mail	08/15/2014 12:31 PM
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E-Mail Subj: Contact Senator Warner

38	EXEMPT	07/21/2014	E-Mail	Hold Hold	Approved	24228	EXEMPT	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

39	EXEMPT	07/21/2014	E-Mail	Hold Hold	Approved	20198	EXEMPT	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

40	EXEMPT	07/21/2014	E-Mail	Hold Hold	Approved	2345	EXEMPT	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

41	EXEMPT	07/28/2014	E-Mail	Hold Hold	Approved	2346	EXEMPT	E-Mail	07/31/2014 05:50 PM
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E-Mail Subj: Contact Senator Warner

42	EXEMPT	07/21/2014	E-Mail	Hold Hold	Approved	2413	EXEMPT	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

43	EXEMPT	07/21/2014	E-Mail	Hold Hold	Approved	22025	EXEMPT	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

44	EXEMPT	07/21/2014	E-Mail	Hold Hold	Approved	20147	EXEMPT	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

45	EXEMPT	07/21/2014	E-Mail	Hold Hold	Approved	20132	EXEMPT	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

46	EXEMPT	07/21/2014	E-Mail	Hold Hold	Approved	24101	EXEMPT	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

47	EXEMPT	07/21/2014	E-Mail	Hold Hold	Approved	22602	EXEMPT	E-Mail	08/15/2014 12:31 PM
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Comments: GENERAL

E-Mail Subj: Contact Senator Warner

48	EXEMPT	08/13/2014	US Mail	Lauren Marshall	Approved	22485	EXEMPT	US Mail	08/13/2014 12:41 PM
4	EXEMPT	07/21/2014	E-Mail	Hold Hold	Approved	24018	EXEMPT	E-Mail	08/15/2014

		Mail <input checked="" type="checkbox"/>				exempt 6	exempt 6	12:31 PM		
Comments: GENERAL E-Mail Subj: Contact Senator Warner										
50	07/21/2014	E-Mail <input checked="" type="checkbox"/>	Hold	Hold	Approved	exempt 6	24523	ORMAL	E-Mail	08/15/2014 12:31 PM
Comments: GENERAL E-Mail Subj: Contact Senator Warner										
51	07/21/2014	E-Mail <input checked="" type="checkbox"/>	Hold	Hold	Approved	exempt 6	23197	ORMAL	E-Mail	08/15/2014 12:31 PM
Comments: GENERAL E-Mail Subj: Contact Senator Warner										
52	07/21/2014	E-Mail <input checked="" type="checkbox"/>	Hold	Hold	Approved	exempt 6	20191	ORMAL	E-Mail	08/15/2014 12:31 PM
Comments: GENERAL E-Mail Subj: Contact Senator Warner										
53	07/21/2014	E-Mail <input checked="" type="checkbox"/>	Hold	Hold	Approved	exempt 6	22835	ORMAL	E-Mail	08/15/2014 12:31 PM
Comments: GENERAL E-Mail Subj: Contact Senator Warner										
54	07/28/2014	E-Mail <input checked="" type="checkbox"/>	Hold	Hold	Approved	exempt 6	24354	ORMAL	E-Mail	07/31/2014 05:50 PM
E-Mail Subj: Contact Senator Warner										
55	07/21/2014	E-Mail <input checked="" type="checkbox"/>	Hold	Hold	Approved	exempt 6	225	ORMAL	E-Mail	08/15/2014 12:31 PM
Comments: GENERAL E-Mail Subj: Contact Senator Warner										
56	07/21/2014	E-Mail <input checked="" type="checkbox"/>	Hold	Hold	Approved	exempt 6	231		E-Mail	08/15/2014 12:31 PM
Comments: GENERAL E-Mail Subj: Contact Senator Warner										
57	07/28/2014	E-Mail <input checked="" type="checkbox"/>	Hold	Hold	Approved	exempt 6	2240	ORMAL	E-Mail	07/31/2014 05:50 PM
E-Mail Subj: Contact Senator Warner										
58	07/21/2014	E-Mail <input checked="" type="checkbox"/>	Hold	Hold	Approved	exempt 6	24073	ORMAL	E-Mail	08/15/2014 12:31 PM
Comments: GENERAL E-Mail Subj: Contact Senator Warner										
59	07/28/2014	E-Mail <input checked="" type="checkbox"/>	Hold	Hold	Approved	exempt 6	2412		E-Mail	07/31/2014 05:50 PM
E-Mail Subj: Contact Senator Warner										
60	07/28/2014	E-Mail <input checked="" type="checkbox"/>	Hold	Hold	Approved	exempt 6	22931	ORMAL	E-Mail	07/31/2014 05:50 PM
E-Mail Subj: Contact Senator Warner										
61	07/21/2014	E-Mail <input checked="" type="checkbox"/>	Hold	Hold	Approved	exempt 6	2456		E-Mail	08/15/2014 12:31 PM



<div style="text-align: right; margin-right: 50px;"><i>exempt 6</i></div> <b>Comments:</b> GENERAL <b>E-Mail Subj:</b> Contact Senator Warner										
<i>exempt 6</i>	07/21/2014	E-Mail <input checked="" type="checkbox"/>	Hold Hold	Approved	<i>exempt 6</i>	201F	<i>exempt 6</i>	E-Mail	08/15/2014 12:31 PM	
<b>Comments:</b> GENERAL <b>E-Mail Subj:</b> Contact Senator Warner										
63	<i>exempt 6</i>	7/28/2014	E-Mail <input checked="" type="checkbox"/>	Hold Hold	Approved	<i>exempt 6</i>	24121	<i>exempt 6</i>	E-Mail	07/31/2014 05:50 PM
<b>E-Mail Subj:</b> Contact Senator Warner										
64	<i>exempt 6</i>	07/21/2014	E-Mail <input checked="" type="checkbox"/>	Hold Hold	Approved	<i>exempt 6</i>	22180	<i>exempt 6</i>	Mail	08/15/2014 12:31 PM
<b>Comments:</b> GENERAL <b>E-Mail Subj:</b> Contact Senator Warner										





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT - 8 2014

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Mark R. Warner  
United States Senate  
Washington, DC 20510

Dear Senator Warner:

Thank you for your letter of July 17, 2014, to the U.S. Environmental Protection Agency's Office of Congressional and Intergovernmental Relations. I appreciate this opportunity to clarify for your constituents the EPA's direct final rule, "Administrative Wage Garnishment," which the EPA published in the Federal Register on July 2, 2014, at 79 FR 37644. This Federal Register notice advised the public that the direct final rule would be withdrawn if the EPA received adverse comments. The EPA withdrew the direct final rule on July 17, 2014, at 79 FR 41646, after receiving adverse comments. The EPA's proposed rule to use administrative wage garnishment as a debt collection tool however, remained open. On July 23, 2014, the EPA extended the comment period, which closed on September 2, 2014, to provide additional time for public comment to the agency.


The Debt Collection Improvement Act of 1996 (Public Law 104-134) gives federal agencies the authority to collect delinquent non-tax debt owed by individuals to the United States through administrative wage garnishment without first obtaining a court order after debtors have been afforded appropriate due process rights, such as the right to request an administrative pre-wage garnishment hearing. Currently, at least 30 federal agencies use such wage garnishment to collect non-tax delinquent federal debt. We are unaware of any successful constitutional due process challenges to the Debt Collection Improvement Act of 1996. In addition, administrative wage garnishment is a collection tool authorized by Congress and the proposed rule does not give the EPA new authorization or put into place new authorities.

The EPA will begin using administrative wage garnishment after the proposed rule becomes final and following negotiations with the Department of Treasury on a memorandum of understanding, as the EPA has chosen for the Department of Treasury to conduct any administrative wage garnishment hearings on the EPA's behalf. When the EPA begins using administrative wage garnishment, the Department of Treasury will send a wage garnishment notice to the debtor. A debtor may request a hearing from the Department of Treasury concerning the existence or amount of the debt, or the terms of the proposed repayment schedule under the administrative wage garnishment order.

Administrative wage garnishment is only one of a suite of debt collection tools used by federal agencies to collect delinquent non-tax debt. Our proposed rule will make available this tool to the EPA, so the EPA can join with other federal agencies in ensuring that non-tax delinquent debts are recovered for appropriate public use.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Christina Moody in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. Bloom', followed by a long horizontal line extending to the right.

David A. Bloom  
Acting Chief Financial Officer

MARK R. WARNER  
VIRGINIA

AL-14-001 4310

## United States Senate

WASHINGTON, DC 20510-4606

August 15, 2014

COMMITTEES:  
FINANCE

BANKING, HOUSING, AND  
URBAN AFFAIRS

BUDGET

INTELLIGENCE

RULES AND ADMINISTRATION

Ms. Joyce K. Frank  
Office of Congressional and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Room 3426 ARN  
Washington, DC 20460

Dear Ms. Frank,

I have recently been contacted by *exempt b*  
Attached please find a copy of that correspondence. I would appreciate it if you could  
look into this matter and provide me with an appropriate response. Thank you.

Sincerely,



MARK R. WARNER  
United States Senator

MRW/lm  
Enclosure



exempt b

Contact Information:

exempt b

exempt b

exempt b

exempt b

Incoming Message:

Date: 7/24/2014

A committee of legislators obtained information that indicated that since January 2012, 21 of 26 requests for Freedom of Information Act fee waivers from conservative groups were denied. During the same period 75 of 82 FOIA fee waiver requests from environmental groups that shared many of the same agendas of the current administration were approved.

The evidence is overwhelming that these supposedly "public" bureaucracies do not think of themselves as equally serving all Americans. They want to smack down some Americans and help others in every way they can get away with. I would be fine with this if the EPA only collected taxes from their groupies, but that is never an option, sadly.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ENVIRONMENTAL INFORMATION

The Honorable Mark R. Warner  
United States Senate  
Washington, D. C. 20510

Dear Senator Warner:

Thank you for your letter of August 15, 2014, forwarding a message from your constituent, *exempt b* *exempt b* concerning the U.S. Environmental Protection Agency's Freedom of Information Act (FOIA) fee waiver process. Joyce K. Frank, the Principal Deputy Associate Administrator for Congressional and Intergovernmental Relations has asked that I respond to you on her behalf.

I am pleased to report that on July 16, 2014, the EPA's Office of Inspector General (OIG) completed its review of the Agency's FOIA fee waiver determinations and released Report No. 14-P-0319, "No Indications of Bias Found in a Sample of Freedom of Information Act Fee Waiver Decisions But the EPA Could Improve Its Process." OIG found no indications of bias in the fee waiver decisions reviewed and agreed with how the EPA applied the six fee waiver evaluation factors in 452 of the 475 fee waiver requests submitted by 21 different organizations, a five percent difference. The complete report may be accessed at: <http://www.epa.gov/oig/reports/2014/20140716-14-P-0319.pdf>.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Christina Moody in the EPA's Office of Congressional and Intergovernmental Relations at [moody.christina@epa.gov](mailto:moody.christina@epa.gov) or (202) 564-0260.

Sincerely,

Renee P. Wynn  
Acting Assistant Administrator  
And Chief Information Officer

AL-14-001-5288

TIM Kaine  
VIRGINIA

WASHINGTON OFFICE:  
WASHINGTON, DC 20510-4607  
(202) 224-4024

COMMITTEE ON  
ARMED SERVICES

COMMITTEE ON  
FOREIGN RELATIONS

COMMITTEE ON  
THE BUDGET

## United States Senate

WASHINGTON, DC 20510-4607

September 11, 2014

Ms. Laura Vaught  
Associate Administrator for Congressional and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Ms. Vaught:

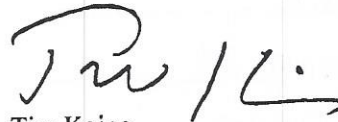
Enclosed is correspondence from my constituent *exempt* in reference to an issue he has encountered involving the Environmental Protection Agency.

*exempt* has an employment issue with the agency. Your immediate attention and assistance with the concerns expressed in this case would be greatly appreciated.

I would also appreciate being provided a response that I may forward to *exempt*, explaining the status of his complaint. Please respond to my Regional Director, Gwen Mason, at 611 S. Jefferson Street, Suite 5B, Roanoke, VA 24011. You may also reach Gwen by phone at (540) 682-5693 or by e-mail at: [gwen\\_mason@kaine.senate.gov](mailto:gwen_mason@kaine.senate.gov).

Thank you for your assistance to my constituent.

Sincerely,



Tim Kaine



**United States Senate**  
Washington, DC 20510-4801

Our team may be able to answer basic questions over the phone; however, if your situation requires further investigation, a specialist may open a case and initiate a congressional inquiry on your behalf. The Privacy Act of 1974 requires congressional offices to obtain written permission from an individual before a federal agency can release any specific information to the Senator. If you would like to request help, please complete the following Privacy Release Authorization and return it to our Roanoke office as directed below. Family members, friends or other interested parties generally may not authorize the release of information on your behalf. As soon as I receive this form, I will be pleased to do everything I can to provide assistance to you.

Timothy M. Kaine  
United States Senator

**PRIVACY RELEASE AUTHORIZATION**

Federal Agency Involved\*: Environmental Protection Agency

Briefly describe your situation: (use additional page if needed)

Wrongful Termination EPA Violates my Rights under VRA programs

Please read supporting documents

I hereby request the assistance of the Office of Senator Tim Kaine to resolve the matter described above and authorize Senator Kaine or his staff to receive any information that may be needed to provide this assistance. The information I have provided is true and accurate to the best of my knowledge and belief. The assistance I have requested from Senator Kaine is in no way an attempt to violate any federal, state or local law.

Full Name (please print) & Date of Birth\*

Address\*

City, State, Zip\*

Email address (if available)

Signature\*

Date

Phone Number (include area code)

Social Security Number\*

Account/Claim Number\*

\*Required Information

While we are happy to work on your behalf, we typically avoid opening a constituent case that is currently being handled by another Senator or House member as this may cause delays in resolution. Do you currently have an open case for the matter described above with another U. S. Senator or Representative?

☒ Yes ☐ No If yes, please provide the members name Senator Barbara Mikulski

**RETURN COMPLETED FORM TO:**

Senator Tim Kaine  
ATTN: Constituent Services  
811 S. Jefferson St., Suite 50  
Roanoke, VA 24011

OR

Fax (540) 682-5697  
ATTN: Constituent Services

**Request Confirmation****Request Information**

Tracking Number : EPA-HQ-2014-007068

Requester Name : ..... *exempt 6*

Date Submitted : 06/03/2014

Request Status : Submitted

## Description :

*! exempt 6* would I like a copy of all my E-mail in the form of a personal storage (PST) from 20 May 2013 – 12 May 2014. Which includes all my sent, receive and Deleted E-mail from Environmental Protection agency (EPA). This request is in reference to my appeal case that had been file with the Merit Systems Protection agency (MSPB) Docket # DC-315H-14-0689-I-1. This request is to support my case against EPA.



I, *exempt b*, was employed by then Environmental Protection Agency (EPA) on May 19, 2013. I was terminated on May 12, 2014 without any formal or informal meeting, with any management, pertaining to my performance or conduct.

I was originally assigned to assist all of the Business Relations Manager (BRM), in support of multiple projects. Because of my technical skills, the BRM's and the Associate Director specifically requested me, to work on additional projects.

I was hired under VRA program, which requires management to setup a training program to assist me in being successful in my position. I was not provided a specific training program, however, I did take it upon myself to attend training. I completed a Windows 8 course, to increase my technical skills and a Government Writing course to increase my communication skills.

My performance, as of November 2013, was Fully Satisfactory; which led me to believe that I was doing acceptable work. In April 2014, I and another employee (hired at the same time) had a meeting with my supervisor, *exempt b*, about our probationary period. *exempt b* agreed that we both deserved our promotions. Then he instructed us to go see the Office's Special Assistant, who handles the administrative paperwork, about preparing the promotion packets for his signature. We did and that was the last meeting that I had with my supervisor.

To my knowledge the paperwork was prepared and waiting his signature. After waiting a couple of weeks, I learned that the promotion was not signed. I then tried to meet with my supervisor to find out if there was a problem. I sent 2 meeting requests, which were either declined or no shows from Mr. *exempt b*; the Director, *exempt b* was also invited to the meetings. I even went directly to his office to ask if he had a few minutes, he said that he did not have the time. I eventually went down to talk with one of union representative. He ask me did I know any one in EPA I trust and could talk to I said yes.

I than E-mail one of EPA Chief Of Staff She agreed to give me an informal on 7 May 2014 at 09:30 - 09:45. Are discussions was about EPA practice toward Veteran and Disable Veteran and EPA practice with contractors. I also told about the request from congress about purchasing software from Contractors. In stead of the using approved list of vendors who they had already negotiated with. I also discuss and showed the Chief Of Staff the letter that I had prepared to sent Senator Barbara Mikulski. She didn't think I would need to send the letter. She recommended that I go back to the union first.



In the termination letter, Mr. *Went* claims that when I expressed my opinion on the approaches being presented for resolving technical issues or tried to show some initiative to get the job done, I was acting inappropriately. When I stopped to help other customers, on my way to meetings then, I failed to timely attend meetings. And, when I did not provide a weekly report, even when there is nothing to report because we are operations, I have performance deficiencies.

So, within about a 30 day span, between the last meeting with my supervisor and my being fired, something transpired that I was never made aware was a problem. Therefore, I was never afforded the decency or opportunity to even make an attempt to take corrective actions.

Since there was no warning to any of these allegations, after I was told I was going to be promoted, I can only assume that I was terminated in retaliation to having a union representative at a meeting that I requested. Therefore, I am requesting that the decision to terminate me be reversed and I be allowed to return to work at the EPA immediately.



## DEPARTMENT OF VETERANS AFFAIRS

Regional Office  
560 Foothill Drive  
P.O. Box 681800  
Salt Lake City UT 84168-1800

April 18, 2012

In reply, refer to: NCC/319/RDS  
CSS 149 60 9996

*exempt b*  
*exempt b*

Dear *exempt b*

The following certificate is furnished for use in establishing civil service preference. This Certificate is considered a permanent record of the Veteran's service-connected disability(ies).

This is to certify that the records of the Department of Veterans Affairs disclose that *exempt b* is entitled to compensation for service-connected disability(ies) rated at 30 percent or more. This payment is made in accordance with public laws administered by the Department of Veterans Affairs. Our records indicate the Veteran served on active duty in the Armed Forces, and was separated under honorable conditions.

## Do You Have Questions Or Need Assistance?

If you have any questions, you may contact us by telephone, e-mail, or letter.

If you	Here is what to do.
Telephone	Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the number is 1-800-829-4833.
Use the Internet	Send electronic inquiries through the Internet at <a href="https://aria.va.gov">https://aria.va.gov</a> .
Write	Put your full name and VA file number on the letter. Please send all correspondence to the address below:  Baltimore Regional Office 31 Hopkins Plaza Federal Bldg Baltimore, MD 21201 FAX: (410) 230-4541

Sincerely yours,

**Donovan W. Thompson**

Donovan W. Thompson  
National Call Center Manager



1. request promotion under the VRA program was threaten I'm on probation this was an informal meeting union representative was at the meeting.

2. Was put on a project e-mail encryption found a great product cheaper than Lockheed Martin by 45 percent. product Proof Point email security. I ask Proof point sale rep. for Three Government agency that were using them they gave me forward the information to *exempt b* he pull me off the Project and said they were still going to used Lockheed Martin, Aug - Sept 2014

3. November I My performance assessment and it's was Full Satisfactory

4. I challenge the process that EZTech were allow to use. *exempt b* explains to me after a long discuss about the process we were giving EZTech to use. Than *exempt b* hold me that the instructions came from upper management. Than out of no where they put a hold on upgrading to Windows 7 because of EZTech Cost for upgrading windows XP to Windows 7. Then EPA forms a team I was on at first. Than I was remove *exempt b* gave some crazy excuses why I was being move back to the 508 programs. Then *exempt b* inform me *exempt b* call him to his office and ask him about Me. *exempt b* share with *exempt b* we got little loud joking about the different branch of service and which one was better. *exempt b* I wanted him to said it was a hostile environment. Then I realize there was a real problem, so then I went to talk with the union. Started sending and requesting everything by email so there would be a audit trail. Since I was an email engineer and had to deal with several Freedom of information Act (FOIA for Queen Anne's County). I thought it would be a key part of any investigation if needed.

5. Now my time was coming up for promotion along with a co-work. so we requested meeting with *exempt b* which he gave us. So we both ask about our promotions. The reason why we request the meetings together I had lost all trust in *exempt b* So I thought that we could be a witness for one another if we needed to file a form grieves with the union. Everything seen to be going Well this meeting was in March 2014 *exempt b* agree that we should get our promotion and told us he would sign the paperwork. Just get *exempt b* to prepare I the paperwork, *exempt b* contact the both of us and ask us to provide her with our job title and series and we gave them to *exempt b* So after several time checking with her to if our paperwork was signed she inform that Mr. *exempt b* still haven't sign them. So we check





short coming they would provide the resource to try and get me to where they where happy. This was must requirement, which wasn't follow.

How can you correct something that you're not a where of I never been inform by any Management in EPA that they had any problem with my work or me.



**Date May 15, 2014**

**To MRS, Gwynn Keyes-Flemings**

**From: *Exempt b*  
2 Times Honorable discharge Veteran**

**Mrs. Keyes-Flemings I'm write this Letter as a 2 Times discharge charge Veteran who was hire on to EPA under the VRA and Over 30 Percent discharge Veteran.**

**We Had an informal meet on May 7, 2014 about my concern on how EPA management was treating Veteran and Discharge Veteran as whole. Because of the experience I was having with management. I was been deny my rights and entitlements as an 2 time honorable discharge charge veteran over 30 percent rating who was here at EPA under the VRA.**

**I share with you may experiences with management and how I was trying to so the right thing by the agency and myself. So I share with you the two course of action that I was considering. One was writing my Senator the other was filing a grievance with the union.**

**Your informal recommendation was to go to the union first to see what they can do for me first, Then if there was still a problem Send the letter to the Senator that I share with you.**

**I would like to share this with you as an two time honorable discharge Veteran. I was never able to do any of your recommendation because on may 12, 2014 I was ambush by Mr. *Exempt b* and *Exempt b* with Termination papers Without any warning or being counsel about ana performances and behavior issues. I was wondering is the practices in OEI-OTOP with were my main concern when I requested and informal meeting with you.**

**I'm requesting from your office as a 2 time Honorable discharge veteran and with over 30 percent disabilities hired under the VRA program to investigate the series of events that just happen to me.**

**I would like you to talk to my co-worker.**

***Exempt b* who is an associate Director in OEI-OTOP on how I try to support with information or any project she might have been working on. How my co-worker requested me to support them with project that she was in charge of.**



*Exempt b* in a meeting with *Exempt b* and *Exempt b* ; requested that I be put on a project, because of the Accolades I received from the support and team player I gave while working on EMC Windows 8 Project at Potomac yards in March 2014. I believe you took part of using Meeting using Meeting Sphere. *Exempt b* then got really upset with *Exempt b* ; because she had requested that I be put on a project that had some issues. I Later seen *Exempt b* and Inform he that she might stay away from request me for any project and thanks her for considering me.

I proceeded to inform her that *Exempt b* ; just doesn't like me and I don't know why. But I believe it's because I had requested an informal meeting Meeting between *Exempt b* , my self and the union Rep. about my promotion that I was eligible for and *Exempt b* got really up set during the meeting,

MRS, Gwynn Keyes-Flemings I truly believe the I was wrongfully terminate from EPA . I believe after you office does an investigation. You will find out this is an Act of retaliation.

*Exempt b*  
2 time honorable discharge  
Over 30 Percent disable Veteran

**As a 2 Time Honorable Discharge Veteran I was wondering if these are common practices in OEI-OTOP, which was my main concern when I requested an informal meeting with you.**

**I'm requesting from your office as a 2 Time Honorable Discharge Disable Veteran with over 30 percent disabilities hired under the VRA Program to investigate the series of events that just happen to me.**

**I would like you to talk to my co-workers.**

**As an example; Mrs. *Exempt b* who is acting Associate Director in OEI-OTOP was pleased to know that I was knowledgeable and willing to support her with information and also, to now that my co-workers requested me to be part of the team.**

**Mrs. Gwynn Keyes-Flemings I truly believe that I was wrongfully terminated from EPA. I believe after your office does an investigation. You will find this to be an Act of retaliation.**

*Exempt b*  
**2 Time Honorable Discharge Disable Veterans  
Over 30 Percent disable Veteran**

**May 15, 2014**

**To: MRS. Renee Wynn**

**From: exempt b**  
**2 Time Honorable Discharge Disable Veterans**

**Mrs. Renee I'm writing this letter as a 2 Times Honorable Discharge Disable Veteran who was hired on to EPA under the VRA Program and over 30 Percent Disable Veteran**

**I share with you my experiences with management and how I was trying to do the right thing by the agency and myself. I took several I Class to improve on my IT skills. I believe one of my train classes benefit your trip to Swiss land. OEI-OTOP was having problems configuring your Windows 8 tablet to use Jahber. I notice some of my Co-worker having a problem configuring the Tablet I volunteer my service. And I assist exempt b and one of you tech and configure you windows 8 Tablet as a team. I also help Microsoft training team put the AA's training packet together. Before your trip exempt b calls me at home because the agency was close do to the weather conditions. Then exempt b notices that they didn't have all the equipment they needed for your trip. And try to call one of our Co-workers who had the rest of your equipment lock in his area.**

**exempt b calls me again because I had the same equipment because I was the POC for that project. So I informed him I was on my way to ensure you had all your equipment for you trip.**

**So as a 2-time honorable discharge Veteran with over percent 30 disable veteran only have two questions too ask of you**

- 1. Do this sound like someone who is not a team player?**
- 2. MY second questions are you are willing to investigate OEI/OTOP Management to find out the truth about the termination of exempt b and what is really going on in that division by talking to the employee.**

**As a 2 Time Honorable Discharge Veteran I would like to share this with you; I was never able to do any of your recommendations because on may 12, 2014 I was Ambushed by exempt b and exempt b with Termination papers. Without warning or being counsel about any performances and behavior issues.**





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 19 2014

OFFICE OF  
ENVIRONMENTAL INFORMATION

The Honorable Tim Kaine  
611 S. Jefferson Street, Suite 5B  
Roanoke, VA 24011

Dear Congressman Kaine:

Thank you for your letter of September 11, 2014, to Laura Vaught, Associate Administrator for Congressional and Intergovernmental Relations, regarding your constituent, *exempt b*, who wrote to you regarding his recent employment with the U. S. Environmental Protection Agency (EPA).

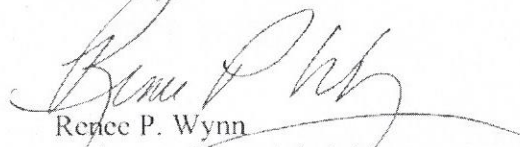
*exempt b* was hired on May 19, 2013, on an excepted service appointment under the Veterans Recruitment Appointment hiring authority. Under such appointments, employees are required to satisfactorily complete a two year probationary period, prior to being converted to a career or career-conditional appointment. *exempt b* employment was terminated on May 12, 2014, due to (1) inappropriate behavior in the workplace; (2) failure to timely attend required meetings; and (3) performance deficiencies. A copy of *exempt b* termination memo, which provides more information about the reasons for his termination, is enclosed as a courtesy. *exempt b* signed a privacy release form, authorizing your office to receive information about his situation.

Although *exempt b* indicates that he filed a complaint with the Merit Systems Protection Board (MSPB), the MSPB dismissed his complaint on June 17, 2014, for lack of jurisdiction. It is also worth noting that on July 14, 2014, the Department of Labor (DOL) informed the agency that *exempt b* had filed a Uniformed Services Employment and Reemployment Act claim with their office. After conducting an investigation into the matter, the DOL closed the case on August 19, 2014, for lack of merit. Although he suggests otherwise in his letter to you, *exempt b* termination had nothing to do with his seeking union representation during a meeting.

It is always unfortunate when it becomes necessary to terminate an employee during their probationary period, especially when that employee is also a veteran. Notwithstanding the circumstances of *exempt b* situation, EPA is proud of its employment history with respect to our hiring of and support for our women and men in uniform. Roughly eight percent of the agency's workforce is composed of veterans, and 19% of the agency's hires during this fiscal year (FY 2014) have been veterans.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Christina Moody in EPA's Office of Congressional and Intergovernmental Relations at [moody.christina@epa.gov](mailto:moody.christina@epa.gov) or (202) 564-0260.

Sincerely,



Rence P. Wynn  
Acting Assistant Administrator  
and Chief Information Officer

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ENVIRONMENTAL INFORMATION

MEMORANDUM

DATE: May 12, 2014

SUBJECT: Notice of Termination

FROM: *Exempt 6*, Chief  
Desktop and Collaborations Solutions Branch  
Office of Technology Operations & Planning  
Office of Environmental Information

TO: *Exempt 6* IT Specialist  
Technology and Information Security Staff  
Office of Technology Operations & Planning  
Office of Environmental Information

The purpose of this memorandum is to inform you that your employment as an Information Technology (IT) Specialist, GS-2210-9, in the Office of Environmental Information (OEI), Office of Technology Operations & Planning, Technology and Information Security Staff, U.S. Environmental Protection Agency, Washington, D.C., will be terminated effective May 12, 2014.

You were hired under a Veterans Recruitment Appointment (VRA) special hiring authority to an excepted service appointment in the above referenced position on May 19, 2013. Under the VRA, your appointment is subject to conversion to a career or career-conditional appointment upon satisfactory completion of two (2) years of substantially continuous service. However, for the reasons detailed below, I find that you have failed to demonstrate continued fitness for employment in your current position in OEI.

Inappropriate behavior in the workplace

You were hired as an IT Specialist working as part of the EZTech Team, which includes both junior and senior technicians. A GS-9 IT Specialist in your position is commonly referred to as an EZTech junior engineer. Due to the nature of this position, the ability to work well as part of a team and being able to take direction from senior engineers and technicians is critical. On multiple occasions you have



demonstrated behavior inappropriate to the workplace and an inability to work well with other members of the staff, particularly senior engineers and technicians. Specifically:

1. You were assigned to work with *Exempt b* who is our senior EZ-Tech engineer and your team lead. On September 23, 2013, you were invited to a meeting with *Exempt b* and myself to discuss encryption for the Office of International and Tribal Affairs (OITA). During the meeting, *Exempt b* began explaining the process for completing this task. Before he could finish, you interrupted him and began explaining how you thought the task should be completed without fully understanding the requirements of the project. *Exempt b* said that he had not finished his explanation. In response, you became very upset and proceeded to slam your hand down on the table. In a loud voice you said, "I'm walking out." You then told us that we needed to listen to you. You said this in an aggressive and threatening manner. After this incident, *Exempt b* no longer felt safe working with you. Therefore, I was forced to remove you from the EZ-Tech Technical team and find other work assignments that you could perform where you would not have to work with *Exempt b*. Your behavior was disrespectful and highly inappropriate for the workplace.

2. Due to the lapse of contractor support after Phase 1 of the Windows 7 upgrade, I asked a team comprised of federal employees to begin upgrading PCs from Windows XP to Windows 7. The team was led by *Exempt b*, a senior technician on the EZ-tech team. I assigned you to work on this team in anticipation that you could work successfully in a team atmosphere. As part of this process, *Exempt b* provided training on the upgrade to you and another employee. On December 2, 2013, during one of these training sessions, you became disruptive and started to aggressively and repeatedly challenge *Exempt b* on the chosen processes for implementing the upgrade. I was informed of your disruptive behavior and I went down to the Command Center where the training was taking place. Once you saw me in the Command Center you adjusted your behavior and the training continued. Nonetheless, your behavior was disruptive and interfered with not only your own training, but the training of another employee as well.

3. The next day, on December 3, 2013, I received a report that you were aggressively challenging and acting in a disrespectful manner towards *Exempt b*. Once again you did not approve of the process being utilized for the upgrade, even though this was a proven process that was ultimately used to upgrade computers across the Agency. I again came down to the Command Center to assess the situation. Once you saw me, you returned to work and adjusted your behavior. Your behavior was disruptive and slowed the completion of the team's work.

4. On April 28, 2014, an EPA contractor sent you and several other employees the following email in response to a question that had been posed by one of your colleagues: "The fixlet created by COTS does not include Windows 8 or is not relevant for Windows 8." You replied with the following email: "I don't know who you are really don't care I really think you need to check your tone when you send an email and I don't believe you had anything to do with any of my project." Your email was disrespectful and unprofessional.

Failure to timely attend required meetings

You have exhibited a pattern of being routinely late or completely absent from required meetings. For example:

1. On September 30, 2013, you were supposed to attend a call with the Computer Science Corporation (CSC) about Section 508 accessibility at 9:00am. Your scheduled start time that day was 8:00 am. I saw you earlier that morning at 8:20 talking to someone with your backpack still on. At 9:05, after the call that you were supposed to attend had begun, I saw you chatting in someone else's cubicle. I reminded you about the call and left. You showed up in my office approximately 10 minutes later to dial in to the call from my office, seemingly unconcerned that you were late.
2. Also on September 30, after our call about Section 508, you were scheduled to meet a CSC technician at the 508 lab at 10:00 am to review workstation configurations. The technician was scheduled to leave by 10:45 am. Before 10:00 am, I asked you to go meet with him before he left so that you would have enough time to review the workstation configuration. Although you started toward the lab, I found you at 10:15 am, chatting with the division secretary and seemingly unconcerned that the CSC technician was waiting for you. I reminded you of the need to get the work done and that you would either miss the technician if he left or you would not have enough time to work on the workstation configuration.
3. You have rarely attended any required monthly staff meetings. Although these meetings are on all staff members' calendars, including yours, you have attended only one staff meeting in the past year, even though you were otherwise in a work status during the times in question.
4. On December 3, 2013, you were supposed to report to the command center at 8:00 am. You had been in my office earlier that morning and departed at approximately 7:30 am to go to the command center. At 8:30 I got a call from the command center asking about your whereabouts since you had not shown up. I found you sitting at your desk.

Performance deficiencies

Although you were rated "Fully Successful" in November 2013, I find that your performance has subsequently deteriorated. On multiple occasions since that time, your work product has been deficient and you have shown little to no interest in completing both small and large work assignments. For example:

1. During your FY13 performance appraisal meeting in November 2013, I informed you that each member of the staff must provide two submissions for the weekly activity report every month. In the four months since that conversation, you have only provided two of the eight required submissions.



2. In March 2014, the Technical Lead position was transitioned from *Exempt 6* to *Exempt 1*, and this created an opportunity for you to serve as back-up to the EZ-Tech team in a junior engineer position with the new lead engineer. *Exempt 6* asked you during both the 2<sup>nd</sup> and 3<sup>rd</sup> week of March to work on parsing the Office 2013 program offices report. Parsing the data was a delicate task where you were to take the entire program office list and separate the program office's federal employees from contractors, by utilizing a proven methodology. The data parsing was key to the successful deployment of Office 2013 by the EZ-tech team to the federal staff only. You did not follow *Exempt 6*'s instructions for completing the task. Rather, you attempted to parse the report using different and unproven methods of your own accord. As a result, the work needed to be redone, which caused a delay in the Office 2013 deployment schedule. You failed to complete the task in a timely fashion and failed to follow guidance provided to you by the lead engineer.

3. You were assigned a task to match contractors' email addresses with their corresponding login names. *Exempt 6* sent you an email on Thursday, April 17, 2014, that contained an excel spreadsheet with the names of 450 contractors that needed to be matched. You were expected to work on this task once you returned to the office on Monday, April 21, 2014. The task should have taken you no longer than five hours. However, two days later on Wednesday April 23, 2014, you had only matched 10 of the 450 names. Once again, you failed to follow direction and attempted to use an untested method rather than utilizing a proven method for performing the task as directed.

#### Summary

During the period of your employment in OEI, I have repeatedly emphasized the importance of working effectively as part of a team. I have explained to you that team work and personal accountability are important keys to a successful career and towards success in the organization. However, you remain unable to work constructively with your team members and team lead. I have also stressed the importance of communications, specifically the importance of sharing project and task updates with management and other team members. Your failure to communicate has caused needless delays and errors in your work product that could have been resolved by openly communicating with your team members and management about your work assignments.

Your conduct as detailed above has adversely impacted the work of this office, has placed an additional burden on your co-workers, and reflects your failure to demonstrate the fitness and qualifications necessary for continued employment.

Therefore, for all of the foregoing reasons, I have made the determination to separate you from your position. Your termination will be effective at the close of business on May 12, 2014. You must immediately surrender to me your laptop, identification badge(s) and any key(s), swipe card(s), etc. which provide you entry to this or any other EPA facility. You must also surrender any credit/charge card(s). Furthermore, you may not, remove any government property, e.g., documents, equipment, supplies, etc.



*Exempt*

### EMPLOYEE RIGHTS INFORMATION

**Merit Systems Protection Board (MSPB) Appeal.** You have the right to appeal your termination with the MSPB if you allege that your termination was based upon partisan political reasons or marital status. An appeal to the MSPB must be in writing and filed no later than thirty (30) calendar days after the effective date of this action, or thirty (30) calendar days after the date of receipt of this decision, whichever is later. The MSPB's regulations, and instructions for filing an appeal, are available at the following website: <http://mspb.gov/appeals/appeals.htm>. A copy of the appeal form may be found at: <http://www.mspb.gov/appeals/forms.htm>. The thirty (30) calendar day filing deadline may be extended by an additional thirty (30) days, for a total of sixty (60) calendar days, if you and the Agency agree, in writing, to attempt to resolve this action through an alternative dispute resolution (ADR) process. Please note, however, that such agreement must be reached before the expiration of the initial thirty (30) calendar day appeal filing deadline. If your appeal is found untimely, it will be dismissed by an MSPB Administrative Judge unless you can demonstrate a good reason for the delay.

You may file an MSPB appeal by mail, fax, personal or commercial delivery at the following address or facsimile number, or by electronic filing under the MSPB's online e-appeal process found at the MSPB's link noted above:

Merit Systems Protection Board  
Washington Regional Office  
1901 S. Bell Street  
Suite 950  
Arlington, Virginia 22202  
(703) 756-6250  
(703) 756-7112 (fax)

If you choose to file an appeal with the MSPB, you must include the following information which identifies the Agency official to whom the MSPB will send a copy of your MSPB appeal and the Acknowledgment Order issued on your appeal: David Guerrero, U.S. Environmental Protection Agency, Office of General Counsel, Mail Code 2377A, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; [guerrero.david@epa.gov](mailto:guerrero.david@epa.gov), (office) (202) 564-5458, (fax) (202) 564-5432.

### **Equal Employment Opportunity Complaint**

If you believe that this action is being taken in whole or in part because of discrimination based on race, color, religion, sex (including sexual harassment), national origin, disability, age, sexual orientation, parental status, marital status, political affiliation, and/or reprisal, you may include your discrimination

claim(s) in your MSPB appeal or you may file a discrimination complaint with the Agency by contacting an EEO Counselor within forty-five (45) days of the effective date of this action.

Please note that you must choose between filing an appeal with the MSPB or filing a discrimination complaint with the Agency; you cannot elect to follow more than one of the above procedures.

You have the right to retain an attorney, the Union, or another representative of your choice to assist you in filing an EEO complaint.

If you have questions about procedures or requirements, if any, relating to this termination decision, please contact Sandra Pearlman, Human Resources Specialist, Labor and Employee Relations Staff, 202-564-6038.

cc: Sandra Pearlman, LERS

SAM GRAVES, MISSOURI  
CHAIRMAN

NYDIA M. VELAZQUEZ, NEW YORK  
RANKING MEMBER

Congress of the United States  
U.S. House of Representatives  
Committee on Small Business  
2561 Rayburn House Office Building  
Washington, DC 20515-6515

September 15, 2014

Ms. Lisa Feldt  
Acting Deputy Administrator  
Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460

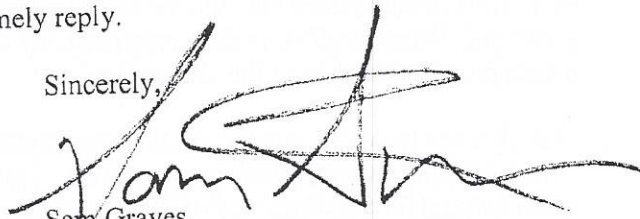
Dear Acting Deputy Administrator Feldt:

On July 30, 2014, former Environmental Protection Agency Deputy Administrator Bob Perciasepe testified before the Committee on Small Business at a hearing titled, "Regulatory Overreach: Is EPA Meeting Its Small Business Obligations?" In order to have a complete record for the July 30th hearing, the following questions are being submitted for your response.

Please provide your responses to all questions by October 15, 2014 to the attention of the Committee's clerk, Susan Marshall, at [susan.marshall@mail.house.gov](mailto:susan.marshall@mail.house.gov) for inclusion in the hearing record. In addition, please send responses that address individual Committee members' questions to them directly.

Thank you in advance for your timely reply.

Sincerely,



Sam Graves  
Chairman



**Questions for the Record**  
**Committee on Small Business**  
**Hearing: "Regulatory Overreach: Is EPA Meeting Its Small Business Obligations?"**  
**July 30, 2014**

**Chairman Sam Graves**

1. The Regulatory Flexibility Act, 5 U.S.C. §§ 601-12 (RFA), requires the EPA to make a threshold determination whether a proposed rule is likely to have a "significant economic impact on a substantial number of small entities." EPA refers to this threshold analysis as "screening analysis" in its own RFA compliance guide.<sup>1</sup> The screening analysis informs EPA whether or not it has enough information to be able to certify that a rule does not require it to conduct an initial regulatory flexibility analysis.
  - a. Did the EPA conduct "screening analysis" for the proposed rule that would set separate CO<sub>2</sub> emission standards for new power plants?<sup>2</sup> If so, please provide the screening analysis to the Committee.
  - b. Did the EPA conduct "screening analysis" for the proposed rule that would revise the definition of "waters of the United States" for all sections of the Clean Water Act?<sup>3</sup> If so, please provide the screening analysis to the Committee.
2. In the "Waters of the United States" proposed rule, the EPA certified the rule as one that will not have a "significant economic impact on a substantial number of small entities" under the RFA. In the RFA certification, the agency compared the proposed rule to the existing regulation. However, in the Economic Analysis, the EPA and Corps compared the proposed rule to the agencies' 2009-2010 field practices that were based on the 2008 guidance.<sup>4</sup> Why did the agencies use two different baselines to assess the costs of the regulation?
3. At the July 30, 2014 hearing, Deputy Administrator Perciasepe stated the vast majority of road ditches would not be jurisdictional under the "Waters of the United States" proposed rule. How many ditches has EPA or the Corps surveyed or assessed to support this assertion? Does the EPA or the Corps have any data that supports this assertion? If so, please provide that data to the Committee.
4. The EPA has issued statements, blog posts, tweets, articles and other documents about the "Waters of the United States" proposed rule. Can small business owners and small governmental jurisdictions rely on statements in those EPA documents as a defense to a CWA enforcement action or lawsuit?

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<sup>1</sup> ENVIRONMENTAL PROTECTION AGENCY, FINAL GUIDANCE FOR EPA RULEWRITERS: REGULATORY FLEXIBILITY ACT 9-30 (2006) [hereinafter EPA RFA Guidance], available at <http://www.epa.gov/sbrefa/documents/Guidance-RegFlexAct.pdf>.

<sup>2</sup> Standards of Performance for Greenhouse Gas Emissions From New Stationary Sources: Electric Utility Generating Units, 79 Fed. Reg. 1430 (Jan. 8, 2014).

<sup>3</sup> Definition of "Waters of the United States" Under the Clean Water Act, 79 Fed. Reg. 22,188 (Apr. 21, 2014).

<sup>4</sup> UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND UNITED STATES ARMY CORPS OF ENGINEERS, ECONOMIC ANALYSIS OF PROPOSED REVISED DEFINITION OF WATERS OF THE UNITED STATES 2 (2014).

5. EPA contends the “Waters of the United States” proposed rule provides greater clarity and certainty and will not result in a significant expansion of CWA jurisdiction. If that’s the case, will EPA agree to publish jurisdictional maps similar to the current National Wetlands Inventory maps showing what water bodies would and would not be jurisdictional under the proposed rule before publishing the final rule?
6. The RFA requires EPA to assess the impacts of its rules on small governmental jurisdictions, which are those with a population of 50,000 or less. EPA previously estimated that there are 40,000 small governmental jurisdictions in the United States.<sup>5</sup> What steps did the EPA take to specifically consider the burdens that the “Waters of the United States” rule will impose on these small entities?

**Congressman Mick Mulvaney (SC-5)**

**Congressman Tom Rice (SC-07)**

**Congressman Scott Tipton (CO-03)**

1. I am concerned that the EPA’s Lead Renovation, Repair, and Painting (LRRP) Rule could impose regulatory costs that are so high they would offset any financial benefit of energy-efficiency projects. This would discourage renovations and upgrades that are otherwise within the EPA’s priorities of lowering power consumption, reducing greenhouse gas emissions, and creating green jobs. Current market estimates say the rule has increased the cost of a project upwards of 30 percent. In developing the LRRP rules, has the EPA considered the negative potential impacts on our other national environment priorities? If so, what were those considerations and conclusions?
2. Based on previous fines for violations of the LRRP Rule, it seems that the EPA relies on retroactive record examination to audit compliance rather than site visits. This puts a heavier burden on properly filling out paperwork than actually following the LRRP rules. And, it applies an additional burden upon contractors that utilize subcontractors for elements of a job that may be under the LRRP rule. Has the EPA considered more accurate means of ensuring LRRP compliance? If so, what? If not, why not? Is the EPA more concerned with issuing fines or ensuring safety compliance?

**Congressman Mick Mulvaney (SC-5)**

1. This past January, Congress restored funding for the Centers for Disease Control and Prevention’s (CDC) Childhood Lead Poisoning Prevention Program. Does the EPA consult with the CDC on results of the agency’s lead paint monitoring? If not, why not? If so, are we seeing a measurable decline in lead paint health issues for children?
2. From June 4, 2014 through July 21, 2014, there were less than 20 companies nationwide who were listed on the EPA enforcement website as being cited for violating the Lead

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<sup>5</sup> EPA RFA Guidance, *supra* note 1, at 46-7.



Renovation, Repair and Painting Rule. It is my understanding that EPA, itself, has shared its concern over its enforcement plan, most notably its inability to identify contractors operating without certification, registration or ethical standards. How is the agency currently targeting those contractors who are either in violation of EPA rules or contractors who never received certification in the first place?

3. The EPA's Greenhouse gas rule will have significant impacts on businesses and consumers in my state, particularly manufacturing. If this rule is not implemented properly, electricity rates could climb by as much as 50 percent. The EPA has gone to great lengths to talk about how states have an abundance of choices in the proposed rule. But, the rule discriminates against South Carolina and other states that have made proactive investments in new nuclear production. South Carolina utilities and ratepayers have spent billions of dollars to build the new reactors at the VC Summer plant – two reactors that will deliver 1100 megawatts of carbon-free electricity to South Carolina when they are completed in 2017 and 2018.

However, after reviewing this rule, I have learned that South Carolina will get no credit for this carbon reduction. The rule assumes that these plants are already online. Yet if these plants were wind, or solar, they would get credit under the rule. Isn't a metric ton of carbon avoided a metric ton of carbon avoided, regardless of where it comes from? Why isn't all carbon-free generation treated the same? Is this something the EPA intends to change before it issues the final rule?

#### **Congressman Scott Tipton (CO-03)**

1. I continue to hear from constituents who have serious concerns over regulations already imposed upon them by the EPA. Specifically, I hear from small business remodelers about the EPA's Residential Home's Lead Renovation, Repair and Painting (LRRP) rule that became effective April 2010. In July 2010, the EPA eliminated the opt-out, which doubled the number of homes affected by the rule. This action increased first-year compliance costs from \$800 million to \$1.3 billion and affected approximately 7.2 million renovation events per year.

Training and certification requirements for contractors and employees performing renovation, repair and painting work on residences built prior to Jan. 1, 1978 apply to painters, plumbers, contractors, window and door installers, electricians and similar specialists. Estimated costs to obtain certification for a remodeling company are at least \$300. Initial courses for certified renovators are \$300-\$500. In addition, the employer is required to pay that employee for the day.

We all want children and families to be safe in their homes. However, if we impose a rule on business, we should at least make sure the cost and burden of compliance is worth the benefit. This past January, in a bipartisan effort, Congress restored funding for the Centers for Disease Control and Prevention's (CDC) Childhood Lead Poisoning Prevention Program. The 2014 Consolidated Appropriations Act included \$15 million for



the CDC program. Does the EPA regularly consult with the CDC on results of the agency's lead paint monitoring? If not, why not? And if it does, are we seeing a measurable decline in lead paint health issues for children? What percentage of childhood lead paint health issues have decreased since the 2010 rule was put in place?

2. Second, how is EPA enforcing this rule? For example, from June 4, 2014 through July 21, 2014 there were 15 companies nationwide who were noted on the EPA enforcement website as being cited for violations. Four of those companies were trainers of the certified lead paint course for renovators. Of the remodeling companies noted, all but one were uncertified. The National Association of the Remodeling Industry (NARI) has been tracking violations on the EPA's website since March 2013. There have been a total of 68 violations posted by EPA since March 2013. Given the number of remodelers who are uncertified in the nation, this is a poor showing of enforcement. It is my understanding that EPA, itself, has shared its concern over its enforcement plan, most notably its inability to identify contractors operating without certification, registration or ethical standards. How is the agency currently targeting those contractors who do not even bother to get certified?



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF CONGRESSIONAL AND  
INTERGOVERNMENTAL RELATIONS

The Honorable Sam Graves  
Chairman  
Committee on Small Business  
U.S. House of Representatives  
Washington, DC 20515

DEC 19 2014

Dear Mr. Chairman:

Thank you for the opportunity to respond to the questions for the record following the July 30, 2014, hearing on "Regulatory Overreach: Is EPA Meeting Its Small Business Obligations?"  
Enclosed are the EPA's responses to the questions.

If you have any further questions, please contact me or your staff may contact Denis Borum in my office at [borum.denis@epa.gov](mailto:borum.denis@epa.gov) or (202) 564-4836.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura Vaught", with a long, sweeping horizontal line extending to the right.

Laura Vaught  
Associate Administrator

Enclosure

**Questions for the Record**  
**Committee on Small Business**  
**Hearing: "Regulatory Overreach: Is EPA Meeting Its Small Business Obligations?"**  
**July 30, 2014**  
**Chairman Sam Graves**

**1. The Regulatory Flexibility Act, 5 U.S.C. §§ 601-12 (RFA), requires the EPA to make a threshold determination whether a proposed rule is likely to have a "significant economic impact on a substantial number of small entities." EPA refers to this threshold analysis as "screening analysis" in its own RFA compliance guide.<sup>1</sup> The screening analysis informs EPA whether or not it has enough information to be able to certify that a rule does not require it to conduct an initial regulatory flexibility analysis.**

- a. Did the EPA conduct "screening analysis" for the proposed rule that would set separate CO<sub>2</sub> emission standards for new power plants?<sup>2</sup> If so, please provide the screening analysis to the Committee.**

Response: The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

After considering the economic impacts of the proposed Carbon Pollution Guidelines for New Power Plants on small entities, the Administrator certified that this action will not have a significant economic impact on a substantial number of small entities.

We did not include an analysis of the illustrative impacts on small entities that may result from implementation of this proposed rule because we do not anticipate any compliance costs over a range of likely sensitivity conditions as a result of this proposal. EPA typically uses a comparison of costs as a percentage of sales or a "cost-to-sales ratio" as the metric to determine whether a small entity is significantly impacted by a proposed regulation. For the proposed Carbon Pollution Guidelines, the cost-to-sales ratio for all affected small entities would be zero, indicating no impact. The EPA believes that electric power companies will choose to build new EGUs that comply with the regulatory requirements of this proposal because of existing and expected market conditions. (See the RIA at <http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0495-0023> for further discussion of sensitivities). The EPA does not project any new coal-fired EGUs without CCS to be built. Accordingly, there are no anticipated economic impacts as a result of this proposal.

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ACT 9-30 (2006) [hereinafter EPA RFA Guidance], available at <http://www.epa.gov/sbrefa/documents/GuidanceRegFlexAct.pdf>.

<sup>2</sup> Standards of Performance for Greenhouse Gas Emissions From New Stationary Sources: Electric Utility Generating Units, 79 Fed. Reg. 1430 (Jan. 8, 2014).



**b. Did the EPA conduct "screening analysis" for the proposed rule that would revise the definition of "waters of the United States" for all sections of the Clean Water Act?"<sup>3</sup> If so, please provide the screening analysis to the Committee.**

Response: The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. As part of their "Waters of the U.S." rulemaking, the EPA certified that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Under the RFA, the impacts of concern are significant, disproportionate adverse economic impacts on small entities subject to the rule, because the primary purpose of the initial regulatory flexibility analysis is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 U.S.C. 603. The scope of regulatory jurisdiction in this proposed rule is narrower than that under the agencies' existing regulations. Because fewer waters will be subject to the CWA under the proposed rule than are subject to regulation under the existing regulations, this action will not adversely affect small entities to a greater degree than the existing regulations. The agencies' proposed rule is not designed to "subject" any entities of any size to any specific regulatory burden. Rather, it is designed to clarify the statutory scope of the "waters of the United States," consistent with Supreme Court precedent. This action if promulgated will not have a significant adverse economic impact on a substantial number of small entities, and therefore no regulatory flexibility analysis is required.

**2. In the "Waters of the United States" proposed rule, the EPA certified the rule as one that will not have a "significant economic impact on a substantial number of small entities" under the RFA. In the RFA certification, the agency compared the proposed rule to the existing regulation. However, in the Economic Analysis, the EPA and Corps compared the proposed rule to the agencies' 2009-2010 field practices that were based on the 2008 guidance.<sup>4</sup> Why did the agencies use two different baselines to assess the costs of the regulation?**

Response: The appropriate legal comparison for the proposed rule is the existing regulatory language. The scope of regulatory jurisdiction in this proposed rule is narrower than the agencies' existing regulations. Because fewer waters will be subject to the CWA under the proposed rule than are subject to regulation under the existing regulations, this action will not adversely affect small entities to a greater degree than the existing regulations. The agencies' proposed rule is not designed to "subject" any entities of any size to any specific regulatory burden. Rather, it is designed to clarify the statutory scope of the "waters of the United States," consistent with Supreme Court precedent.

As a practical matter, however, the agencies recognize that implementing this rule will result in changes when compared to current field practice, and this comparison can be useful in informing policy decisions. As such, the draft economic analysis quantifies the potential costs and benefits that could result from the implementation of the proposed rule which would result in new protected waters as compared to current guidance and practice. The draft economic analysis will be updated and published

<sup>3</sup> Definition of "Waters of the United States" Under the Clean Water Act, 79 Fed. Reg. 22,188 (Apr. 21, 2014).

<sup>4</sup> UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, ECONOMIC ANALYSIS OF PROPOSED REVISED DEFINITION OF WATERS OF THE UNITED STATES 2 (2014).



along with the final rule using the Corps 2013 and 2014 field data from the Section 404 program. The final economic analysis will reflect the way in which the final rule will be applied.

**3. At the July 30, 2014 hearing, Deputy Administrator Perciasepe stated the vast majority of road ditches would not be jurisdictional under the "Waters of the United States" proposed rule. How many ditches has EPA or the Corps surveyed or assessed to support this assertion? Does the EPA or the Corps have any data that supports this assertion? If so, please provide that data to the Committee.**

Response: Deputy Administrator Perciasepe's statement at the July 30 hearing referred to the fact that the proposed rule would exclude ditches from Clean Water Act jurisdiction that are excavated wholly in uplands, drain only uplands, and have less than perennial flow. Those roadside ditches that are excavated in uplands and have the primary purpose to drain runoff from roads, such that they drain only uplands, would not be jurisdictional under the proposed rule if they have less than perennial flow. The ditch exclusion applies to all ditches that fit the exclusion language, including many roadside and agricultural ditches. The agencies believe the proposed rule actually reduces regulation of ditches compared to the 2008 Army/EPA Jurisdiction Guidance that is currently in effect, which allows for the regulation of both intermittent and perennial flow ditches).

**4. The EPA has issued statements, blog posts, tweets, articles, and other documents about the "Waters of the United States" proposed rule. Can small business owners and small governmental jurisdictions rely on statements in those EPA documents as a defense to a CWA enforcement action or lawsuit?**

Response: At this time, jurisdictional determinations are being made under existing Corps and EPA regulations and guidance, and applicable case law not under the proposed rule. To help inform the public regarding the proposed rule, the EPA has also taken steps to translate the legal language and scientific principles of the proposed rule into easier-to-understand communications documents. This is the case for any major regulatory action taken by the EPA or any other federal agency. Such documents help explain the proposed rule to the regulated public but do not substitute for it. The agencies would suggest that the small business owner or small governmental jurisdiction contact their local EPA or Corps office for specific questions about Clean Water Act jurisdiction.

**5. EPA contends the "Waters of the United States" proposed rule provides greater clarity and certainty and will not result in a significant expansion of CWA jurisdiction. If that's the case, will EPA agree to publish jurisdictional maps similar to the current National Wetlands Inventory maps showing what water bodies would and would not be jurisdictional under the proposed rule before publishing the final rule?**

Response: The agencies' proposed rule does not include a specific delineation and determination of waters across the country that would be jurisdictional under the proposed rule. Consistent with the more than 40-year practice under the Clean Water Act, the agencies make determinations regarding the jurisdictional status of particular waters almost exclusively in response to a request from a potential permit applicant or landowner asking the agencies to make such a determination. The agencies are currently considering a number of options for the treatment of "other waters" under the final rule. Once



the rule is finalized, the agencies will work to develop outreach materials for the public to make it as clear as possible which waters are jurisdictional and which are not. Depending on the option(s) selected for the final rule, the agencies may consider including maps as part of these materials if they determine that these will increase clarity for the public.

Within the existing framework, the agencies' proposed rule would provide clearer categories of waters that would be jurisdictional, as well as a clearer list of the waters and features that are not jurisdictional. The agencies' proposed rule would not protect any new types of waters that have not historically been covered under the Clean Water Act and is consistent with the Supreme Court's more narrow reading of Clean Water Act jurisdiction. Providing a clearer regulatory definition will streamline the process of making jurisdictional determinations and provide additional clarity and predictability to this process.

**6. The RFA requires EPA to assess the impacts of its rules on small governmental jurisdictions, which are those with a population of 50,000 or less. EPA previously estimated that there are 40,000 small governmental jurisdictions in the United States.<sup>5</sup> What steps did the EPA take to specifically consider the burdens that the "Waters of the United States" rule will impose on these small entities?**

Response: The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. As part of their "Waters of the U.S." rulemaking, the EPA certified that their proposed rule will not have a significant economic impact on a substantial number of small entities.

At the same time, the agencies recognize the substantial interest in this issue by small governmental jurisdictions and other small-entity stakeholders. In light of this interest, the EPA and the Corps determined to seek early and wide input from representatives of small entities while formulating a proposed rule. This process has enabled the agencies to hear directly from these representatives, at an early stage, about how they should approach this complex question of statutory interpretation, together with related issues that such representatives of small entities may identify for possible consideration in separate proceedings. The EPA has also prepared a report summarizing their small entity outreach to date, the results of this outreach, and how these results have informed the development of this proposed rule. This report is publicly available in the docket for this proposed rule. Finally, on October 15, 2014, the agencies hosted a second roundtable to facilitate input from small entities, which included participants from two small government jurisdictions. A summary of this roundtable is also available in the docket for the proposed rule.

**Congressman Mick Mulvaney (SC-5)**  
**Congressman Tom Rice (SC-07)**  
**Congressman Scott Tipton (CO-03)**

**1. I am concerned that the EPA's Lead Renovation, Repair, and Painting (LRRP) Rule could impose regulatory costs that are so high they would offset any financial benefit of energy-efficiency projects. This would discourage renovations and upgrades that are otherwise within the**

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<sup>5</sup> EPA RFA Guidance, *supra* note 1, at 46-7.



**EPA's priorities of lowering power consumption, reducing greenhouse gas emissions, and creating green jobs. Current market estimates say the rule has increased the cost of a project upwards of 30 percent. In developing the LRRP rules, has the EPA considered the negative potential impacts on our other national environment priorities? If so, what were those considerations and conclusions?**

Response: EPA aimed to keep costs reasonable in developing its requirements for lead-safe work practices. In fact, EPA heard from industry that many of the practices were already in use by some contractors even before the rule was promulgated, because lead-safe work practices also have ancillary benefits of reducing overall dust during and after a job. In most general terms, the costs to comply with the lead-safe work practices required by a rule depend on the size of the job; on average, the costs can be up to a couple hundred dollars. For contractors who were already using some of the lead-safe work practices, however, the incremental cost would be lower. Overall, the benefits of the LRRP rule and amendments, in terms of avoided health, medical, and educational costs, are expected to significantly outweigh the cost of improved work practices.

During the development of amendments to the LRRP rule, EPA considered how complying with the rule could potentially affect the federal government's Weatherization Assistance Program (WAP) and the Home Star program, both of which were aimed at improving energy efficiency in homes (i.e., whether there would be enough trained and certified renovators to do the work in the WAP and Home Star programs). EPA concluded the capacity in 2010 would be sufficient. As recently as June 2014, there were 566 training providers accredited for LRRP (including 361 traveling trainers) and 115,370 certified firms (137,256 firms including those approved by authorized states), and more than 510,000 individuals have been trained as Certified Renovators.

**2. Based on previous fines for violations of the LRRP Rule, it seems that the EPA relies on retroactive record examination to audit compliance rather than site visits. This puts a heavier burden on properly filling out paperwork than actually following the LRRP rules. And, it applies an additional burden upon contractors that utilize subcontractors for elements of a job that may be under the LRRP rule. Has the EPA considered more accurate means of ensuring LRRP compliance? If so, what? If not, why not? Is the EPA more concerned with issuing fines or ensuring safety compliance?**

Response: The recordkeeping checklist for the Lead Renovation, Repair and Painting (LRRP) Rule is very straightforward and easy to complete. When the EPA discovers a firm is in violation of the LRRP Rule we may also review that firm's records to determine if there is a pattern of non-compliance or if the violations we discovered are limited to that inspection. General contractors who use subcontractors are not required to fill out or keep the records of the subcontractors, but must be able to provide those records from the subcontractors if requested. The EPA has found the record review process to be an effective means of determining the overall compliance status of contractors conducting renovations subject to the LRRP Rule. The EPA's first concern is ensuring compliance with the work practice safety standards of the LRRP Rule to protect the health of the occupants, especially the young children, of the houses or child occupied facilities undergoing renovation.



**Congressman Mick Mulvaney (SC-5)**

**1. This past January, Congress restored funding for the Centers for Disease Control and Prevention's (CDC) Childhood Lead Poisoning Prevention Program. Does the EPA consult with the CDC on results of the agency's lead paint monitoring? If not, why not? If so, are we seeing a measurable decline in lead paint health issues for children?**

Response: Over the years, EPA and the Centers for Disease Control and Prevention (CDC) have partnered on various lead initiatives. For example, CDC participates as an active member on the HUD and EPA-chaired Federal Lead-Based Paint Task Force and EPA served as an ex officio member of CDC's former Federal Advisory Committee on Childhood Lead Poisoning. Additionally, the EPA and CDC continuously work together on outreach efforts such as National Lead Poisoning Prevention Week and activities related to the Global Alliance to Eliminate Lead Paint.

Regarding monitoring, as described in EPA's Air Quality Criteria for Lead document (2006) there are many sources that contribute to lead exposure, thus any measure of blood lead will reflect all sources of lead exposure. EPA is unaware of any national data set that directly measures only the reductions of those lead hazards in homes caused by lead-based paint. The best currently available data set for assessing population level blood lead statistics is the CDC's National Health and Nutrition and Examination Survey (NHANES).

Based on the NHANES 2014 data (sampling period 2009-2012), 2.1%, or an estimated 535,000 children, have BLLs greater than or equal to 5 micrograms per deciliter ( $\mu\text{g/dL}$ ), levels known to put their academic and later life success at risk. This demonstrates a decrease from previous years (sampling period 2005-2008 at 3.0%, sampling period 2003-2006 at 4.1%). While overall decreasing BLLs are favorable, CDC's blood lead surveillance data, collected from state and local health departments, continues to identify a disproportionate share of cases in low income and minority communities. There is no known safe blood lead level for children. CDC, EPA and other federal partners continue to work together to control or eliminate lead hazards before children are exposed.

**2. From June 4, 2014 through July 21, 2014, there were less than 20 companies nationwide who were listed on the EPA enforcement website as being cited for violating the Lead Renovation, Repair and Painting Rule. It is my understanding that EPA, itself, has shared its concern over its enforcement plan, most notably its inability to identify contractors operating without certification, registration or ethical standards. How is the agency currently targeting those contractors who are either in violation of EPA rules or contractors who never received certification in the first place?**

Response: The EPA is most concerned about renovation contractors who are not following the work practice safety standards. Certified firms have also been found to be out of compliance with the work practice safety standards of the Lead Renovation, Repair and Painting (LRRP) Rule. The EPA often receives tips or complaints from home owners, renters or neighbors about renovation work practices which are not containing dust and debris. This information can lead to inspections of worksites or records inspections depending on the quality and timeliness of the information provided. The EPA may also work with local health and building permit and inspection departments to identify ongoing or projected renovation projects in housing built before 1978 and may conduct joint inspections of those worksites. The EPA is currently analyzing other methods to more effectively identify and prioritize

potential non-compliance in areas with the highest level of "at-risk" populations, (i.e. children under six).

**3. The EPA's Greenhouse gas rule will have significant impacts on businesses and consumers in my state, particularly manufacturing. If this rule is not implemented properly, electricity rates could climb by as much as 50 percent. The EPA has gone to great lengths to talk about how states have an abundance of choices in the proposed rule. But, the rule discriminates against South Carolina and other states that have made proactive investments in new nuclear production. South Carolina utilities and ratepayers have spent billions of dollars to build the new reactors at the VC Summer plant- two reactors that will deliver 1100 megawatts of carbon-free electricity to South Carolina when they are completed in 2017 and 2018.**

**However, after reviewing this rule, I have learned that South Carolina will get no credit for this carbon reduction. The rule assumes that these plants are already online. Yet if these plants were wind, or solar, they would get credit under the rule. Isn't a metric ton of carbon avoided a metric ton of carbon avoided, regardless of where it comes from? Why isn't all carbon-free generation treated the same? Is this something the EPA intends to change before it issues the final rule?**

Response: The EPA is conducting unprecedented outreach about this proposal and encouraging robust public comment and participation in the formulation of the final Clean Power Plan. We are hearing substantial input on the treatment of new nuclear in goal setting and will consider those comments carefully as we work toward a final rule. The comment period on the proposal is open through December 1, 2014.

Under the Clean Power Plan, the EPA sets the goals and states get to decide how to meet the goals. States can use the under construction nuclear units in their compliance plans to meet the goal. To set the goals in the proposal, the EPA considered nuclear units that currently have permits for construction and operation. The proposal assumes a 90% capacity factor in generation for the new nuclear units. However, it will be up to states to decide how and to what extent to rely on these units in their plans. For example, if the under construction units perform better than a 90% capacity factor, these units could help states get even closer to their goals.



**Congressman Scott Tipton (CO-03)**

**1. I continue to hear from constituents who have serious concerns over regulations already imposed upon them by the EPA. Specifically, I hear from small business remodelers about the EPA's Residential Home's Lead Renovation, Repair and Painting (LRRP) rule that became effective April 2010. In July 2010, the EPA eliminated the opt-out, which doubled the number of homes affected by the rule. This action increased first-year compliance costs from \$800 million to \$1.3 billion and affected approximately 7.2 million renovation events per year.**

**Training and certification requirements for contractors and employees performing renovation, repair and painting work on residences built prior to Jan. 1, 1978 apply to painters, plumbers, contractors, window and door installers, electricians and similar specialists. Estimated costs to obtain certification for a remodeling company are at least \$300. Initial courses for certified renovators are \$300-\$500. In addition, the employer is required to pay that employee for the day.**

**We all want children and families to be safe in their homes. However, if we impose a rule on business, we should at least make sure the cost and burden of compliance is worth the benefit. This past January, in a bipartisan effort, Congress restored funding for the Centers for Disease Control and Prevention's (CDC) Childhood Lead Poisoning Prevention Program. The 2014 Consolidated Appropriations Act included \$15 million for the CDC program. Does the EPA regularly consult with the CDC on results of the agency's lead paint monitoring? If not, why not? And if it does, are we seeing a measurable decline in lead paint health issues for children? What percentage of childhood lead paint health issues have decreased since the 2010 rule was put in place?**

**Response:** Over the years, EPA and the Centers for Disease Control and Prevention (CDC) have partnered on various lead initiatives. For example, CDC participates as an active member on the HUD and EPA-chaired Federal Lead-Based Paint Task Force and EPA served as an ex officio member of CDC's former Federal Advisory Committee on Childhood Lead Poisoning. Additionally, the EPA and CDC continuously work together on outreach efforts such as National Lead Poisoning Prevention Week and activities related to the Global Alliance to Eliminate Lead Paint.

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**Based on the NHANES 2014 data (sampling period 2009-2012), 2.1%, or an estimated 535,000 children, have BLLs greater than or equal to 5 µg/dL, levels known to put their academic and later life success at risk. This demonstrates a decrease from previous years (sampling period 2005-2008 at 3.0%, sampling period 2003-2006 at 4.1%). While overall decreasing BLLs are favorable, CDC's blood lead surveillance data, collected from state and local health departments, continues to identify a disproportionate share of cases in low income and minority communities. There is no known safe blood lead level for children. CDC, EPA and other federal partners continue to work together to control or eliminate lead hazards before children are exposed.**

**2. Second, how is EPA enforcing this rule? For example, from June 4, 2014 through July 21, 2014 there were 15 companies nationwide who were noted on the EPA enforcement website as being cited for violations. Four of those companies were trainers of the certified lead paint course for renovators. Of the remodeling companies noted, all but one were uncertified. The National Association of the Remodeling Industry (NARI) has been tracking violations on the EPA's website since March 2013. There have been a total of 68 violations posted by EPA since March 2013. Given the number of remodelers who are uncertified in the nation, this is a poor showing of enforcement. It is my understanding that EPA, itself, has shared its concern over its enforcement plan, most notably its inability to identify contractors operating without certification, registration or ethical standards. How is the agency currently targeting those contractors who do not even bother to get certified?**

Response: The EPA is most concerned about renovation contractors who are not following the work practice safety standards. Certified firms have also been found to be out of compliance with the work practice safety standards of the Lead Renovation, Repair and Painting (LRRP) Rule. The EPA often receives tips or complaints from home owners, renters or neighbors about renovation work practices which are not containing dust and debris. The EPA may also work with local health and building permit and inspection departments to identify ongoing or projected renovation projects in housing built before 1978 and may conduct joint inspections of those worksites. The EPA is currently analyzing other methods to more effectively identify and prioritize potential non-compliance in areas with the highest level of "at-risk" populations, (i.e. children under six).



AL-14-001 -5252



THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

SEP 12 2014

The Honorable Thomas Carper  
Chairman  
Committee on Homeland Security  
and Government Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

I am pleased to support the charter National Environmental Justice Advisory Council in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The National Environmental Justice Advisory Council is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The National Environmental Justice Advisory Council will be in effect for two years from the date the charter is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina Moody in EPA's Office of Congressional and Intergovernmental Relations at [Moody.christina@epa.gov](mailto:Moody.christina@epa.gov) or (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", is written over a horizontal line.

Gina McCarthy

Enclosure



# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

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## NATIONAL ENVIRONMENTAL JUSTICE ADVISORY COUNCIL

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1. **Committee's Official Designation (Title):**

National Environmental Justice Advisory Council

2. **Authority:**

This charter renews the National Environmental Justice Advisory Council (NEJAC) in accordance with the requirements of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The NEJAC is in the public interest and supports the Environmental Protection Agency (EPA) in performing its duties and responsibilities.

3. **Objectives and Scope of Activities:**

The NEJAC will provide independent advice and recommendations to the Administrator about broad, crosscutting issues related to environmental justice. The NEJAC's efforts will include evaluation of a broad range of strategic, scientific, technological, regulatory, community engagement and economic issues related to environmental justice. The major objectives will be to provide advice and recommendations about EPA efforts to:

- a. Integrate environmental justice considerations into Agency programs, policies and activities
- b. Improve the environment or public health in communities disproportionately burdened by environmental harms and risks
- c. Address environmental justice to ensure meaningful involvement in EPA decision-making, build capacity in disproportionately-burdened communities, and promote collaborative problem-solving for issues involving environmental justice
- d. Strengthen its partnerships with other governmental agencies, such as other Federal agencies and state, tribal, or local governments, regarding environmental justice issues
- e. Enhance research and assessment approaches related to environmental justice

4. **Description of Committees Duties:**

The duties of the NEJAC are solely to advise the EPA.

5. **Official(s) to Whom the Committee Reports:**

The NEJAC will provide advice and recommendations, and report to the EPA Administrator through the Office of Environmental Justice, Office of Enforcement and Compliance Assurance.

6. Agency Responsible for Providing the Necessary Support:

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Environmental Justice, Office of Enforcement and Compliance Assurance.

7. Estimated Annual Operating Costs and Work Years:

The estimated annual operating cost of the NEJAC is \$295,600, which includes 1.5 person-years of support.

8. Designated Federal Officer:

A full-time or permanent part-time employee of EPA will be appointed as the Designated Federal Officer (DFO). The DFO or a designee will be present at all of the meetings of the advisory committee and subcommittees. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

9. Estimated Number and Frequency of Meetings:

The NEJAC expects to meet approximately two (2) to four (4) times a year. Meetings may occur approximately once every three to six months, as needed and approved by the Designated Federal Officer (DFO), or his/her designee. EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the NEJAC will hold open meetings, unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with 5 U.S.C. 552b(c). Interested persons may attend meetings, appear before the committee as time permits, and file comments with the NEJAC.

10. Duration and Termination:

The NEJAC will be examined annually and will exist until the EPA determines the Council is no longer needed. This charter will be in effect for two years from the date it is filed with Congress. After this two-year period, the charter may be renewed in accordance with Section 14 of FACA.

**11. Member Composition:**

The NEJAC will be composed of approximately 27 members who will serve as Representative members of non-federal interests, Regular Government Employees (RGE), or Special Government Employees (SGE). Representative members are selected to represent the points of view held by organizations, associations, or classes of individuals. In selecting members, EPA will consider candidates from among, but not limited to: community-based groups; industry and business; academic and educational institutions; state and local governments; indigenous organization and Federally-recognized tribal governments and Indigenous groups; and non-governmental and environmental groups, as deemed appropriate.

**12. Subgroups:**

EPA, or the NEJAC with EPA approval, may form subcommittees or work groups for any purpose consistent with this charter. Such subcommittees or work groups may not work independently of the chartered committee and must report their proposed recommendations and advice to the chartered NEJAC for full deliberation and discussion. Subcommittees or work groups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the EPA.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, will be handled in accordance with NARA General Records Schedule 26, Item 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records will be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

8/8/2014  
Agency Approval Date

AUG 20 2014  
GSA Consultation Date

SEP 12 2014  
Date Filed with Congress



MARK R. WARNER  
VIRGINIA

AL-14-001-5665

## United States Senate

WASHINGTON, DC 20510-4606

September 17, 2014

COMMITTEES:  
FINANCE

BANKING, HOUSING, AND  
URBAN AFFAIRS

BUDGET

INTELLIGENCE

RULES AND ADMINISTRATION

Ms. Joyce K. Frank  
Office of Congressional and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Room 3426 ARN  
Washington, DC 20460

Dear Ms. Frank,

I have recently been contacted by one of my constituents who wishes to remain anonymous. Attached please find a copy of that correspondence. I would appreciate it if you could look into this matter and provide me with an appropriate response. Thank you.

Sincerely,



MARK R. WARNER  
United States Senator

MRW/lis  
Enclosure

Contact Information:

VA

Incoming Message:

Date: 9/8/2014

Senator -

I am a very recently retired federal civil servant, specifically the

One of the things about EPA that concerned me greatly during my tenure, and still bothers me, is the Agency's apparent bias against veterans. However, while I was with EPA, I was not comfortable bringing this issue outside the Agency.

As a retired Officer of Marines (reserve, mainly) I found the Agency's lack of appreciation for the benefits of hiring veterans to be deeply ingrained, even cultural.

The Agency is rightfully proud of its statistics on diversity, except in the area of veterans. According to the last set of numbers I saw, fewer than 5% of EPA personnel are veterans. I would venture to guess that the number is even lower among ~ 5%  
should, in my opinion, be completely unacceptable.

I understand the challenges of oversight, and the exhausting workload you must bear. But you represent Virginia, a state with very high numbers of both veterans and civil servants.

I respectfully ask that you engage EPA on this matter, and make an attempt to help them change. It would be the right thing to do, and it would be VERY good for EPA, an organization with a very closed culture.

I would be happy to assist in any way possible, or to work with your staff on this matter. Please ask your team to keep me informed if you should decide to engage on this matter.

Thank you, and thank you for your great service to Virginia and to America.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB - 4 2015

OFFICE OF  
ADMINISTRATION  
AND RESOURCES  
MANAGEMENT

The Honorable Mark R. Warner  
United States Senate  
Washington, D.C. 20510

Dear Senator Warner:

Thank you for your letter of September 17, 2014, regarding the policy, statistics and culture related to the hiring of veterans at the U.S. Environmental Protection Agency.

The EPA remains committed to supporting the hiring of qualified veterans into our workforce. This commitment has been demonstrated in a variety of ways through our Veterans Employment Program. Our accomplishments through this program include:

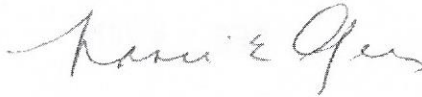
- Establishing a full-time EPA Veterans Employment Program manager position;
- Active participation with the Veterans Administration Vocational Rehabilitation and Employment Program to create career opportunities and explore on-the job training programs for veterans;
- Creating marketing tools to attract veterans;
- Participating in outreach events (career seminars and scheduled speaking engagements);
- Utilizing skills banks and applicant pools;
- Creating the EPA Injured Soldiers and Volunteer Placement Program (featured in *Recruit Military* magazine);
- Utilizing re-employment priority lists, EPA databases and mailing lists that include veterans' organizations; and
- An Annual Veterans Day Program to highlight the sacrifices made and qualifications of our military workforce.

The agency's commitment to veteran hiring is demonstrated by our overall increase in the number of veterans and disabled veterans within our workforce. Approximately 19% of our total hires in FY 2014 were veterans and over 11% were disabled veterans. We are proud of our efforts to recognize the contributions and sacrifices veterans have made in service to our country as well as our work to recruit these valuable employees.



Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Christina Moody in the EPA's Office of Congressional and Intergovernmental Relations at [Moody.Christina@epa.gov](mailto:Moody.Christina@epa.gov) or (202) 564-0260.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nanci E. Gelb". The signature is fluid and cursive, with a large initial "N" and a stylized "G".

Nanci E. Gelb  
Acting Assistant Administrator

AL-15-000-0079

MARK R. WARNER  
VIRGINIA

## United States Senate

WASHINGTON, DC 20510-4606

September 19, 2014

COMMITTEES:  
FINANCE

BANKING, HOUSING, AND  
URBAN AFFAIRS

BUDGET

INTELLIGENCE

RULES AND ADMINISTRATION

Ms. Joyce K. Frank  
Office of Congressional and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Room 3426 ARN  
Washington, DC 20460

Dear Ms. Frank,

I have recently been contacted by exempt  
Attached please find a copy of that correspondence. I would appreciate it if you could  
look into this matter and provide me with an appropriate response. Thank you.

Sincerely,



MARK R. WARNER  
United States Senator

MRW/lm  
Enclosure

*exempt b*

Contact Information:

*exempt b*

*exempt b*

*exempt b*

Incoming Message:

Date: 9/2/2014

WE, the Undersigned, oppose giving the EPA the power to seize property and garnish wages to satisfy its fines and punishments without going through the courts.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 28 2014

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Mark R. Warner  
United States Senate  
Washington, DC 20510

Dear Senator Warner:

Thank you for your letter of September 19, 2014, to the U.S. Environmental Protection Agency's Office of Congressional and Intergovernmental Relations. I appreciate this opportunity to clarify for your constituent the EPA's direct final rule, "Administrative Wage Garnishment," which the EPA published in the Federal Register on July 2, 2014, at 79 FR 37644. This Federal Register notice advised the public that the direct final rule would be withdrawn if the EPA received adverse comments. The EPA withdrew the direct final rule on July 17, 2014, at 79 FR 41646, after receiving adverse comments. The EPA's proposed rule to use administrative wage garnishment as a debt collection tool however, remained open. On July 23, 2014, the EPA extended the comment period, which closed on September 2, 2014, to provide additional time for public comment to the agency.

The Debt Collection Improvement Act of 1996 (Public Law 104-134) gives federal agencies the authority to collect delinquent non-tax debt owed by individuals to the United States through administrative wage garnishment without first obtaining a court order after debtors have been afforded appropriate due process rights, such as the right to request an administrative pre-wage garnishment hearing. Currently, at least 30 federal agencies use such wage garnishment to collect non-tax delinquent federal debt. We are unaware of any successful constitutional due process challenges to the Debt Collection Improvement Act of 1996. In addition, administrative wage garnishment is a collection tool authorized by Congress and the proposed rule does not give the EPA new authorization or put into place new authorities.

Currently, the EPA is reviewing and considering comments received. The EPA will begin using administrative wage garnishment after the review of comments is completed, the proposed rule becomes final and following negotiations with the Department of Treasury on a memorandum of understanding, as the EPA has chosen for the Department of Treasury to conduct any administrative wage garnishment hearings on the EPA's behalf. When the EPA begins using administrative wage garnishment, the Department of Treasury will send a wage garnishment notice to the debtor. A debtor may request a hearing from the Department of Treasury concerning the existence or amount of the debt, or the terms of the proposed repayment schedule under the administrative wage garnishment order.

Administrative wage garnishment is only one of a suite of debt collection tools used by federal agencies to collect delinquent non-tax debt. Our proposed rule will make available this tool to the EPA, so the EPA can join with other federal agencies in ensuring that non-tax delinquent debts are recovered for appropriate public use.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Christina Moody in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Bloom', is written over a horizontal line.

David A. Bloom  
Acting Chief Financial Officer